

26th CONGRESS,  
1st Session.

Doc. No. 185.  
[REPRINT.]

*U.S.*  
HO. OF REPS.  
EXECUTIVE.

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# AFRICANS TAKEN IN THE AMISTAD.

CONGRESSIONAL DOCUMENT,

CONTAINING

THE CORRESPONDENCE, &c.,

IN RELATION TO THE

## CAPTURED AFRICANS.

NEW YORK:

FOR SALE AT THE ANTI-SLAVERY DEPOSITORY,

No. 131 NASSAU STREET, (CLINTON HALL.)

Price 12½ cents.

1840.



## SPEECH.

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MR. PRESIDENT—I rise to present for the consideration of the Senate, numerous petitions signed by, not only citizens of my own State, but citizens of several other States, New York, Pennsylvania, Michigan, Illinois, and Indiana. These petitioners, amounting in number to several thousand, have thought proper to make me their organ, in communicating to Congress their opinions and wishes on subjects which, to them, appear of the highest importance. These petitions, sir, are on the subject of slavery, the slave trade as carried on within and from this District, the slave trade between the different States of this Confederacy, between this country and Texas, and against the admission of that country into the Union, and also against that of any other State, whose constitution and laws recognise or permit slavery. I take this opportunity to present all these petitions together, having detained some of them for a considerable time in my hands, in order that as small a portion of the attention of the Senate might be taken up on their account as would be consistent with a strict regard to the rights of the petitioners. And I now present them under the most peculiar circumstances that have ever probably transpired in this or any other country. I present them on the heel of the petitions which have been presented by the Senator from Kentucky [Mr. Clay] signed by the inhabitants of this District, praying that Congress would not receive petitions on the subject of slavery in the District, from any body of men or citizens, but themselves. This is something new; it is one of the devices of the slave power, and most extraordinary in itself. These petitions I am bound in duty to present—a duty which I cheerfully perform, for I consider it not only a duty but an honor. The respecta-

ble names which these petitions bear, and being against a practice which I as deeply deprecate and deplore as they can possibly do, yet I well know the fate of these petitions ; and I also know the time, place, and disadvantage under which I present them. In availing myself of this opportunity to explain my own views on this agitating topic, and to explain and justify the character and proceedings of these petitioners, it must be obvious to all that I am surrounded with no ordinary discouragements. The strong prejudice which is evinced by the petitioners of the District, the unwillingness of the Senate to hear, the power which is arrayed against me on this occasion, as well as in opposition to those whose rights I am anxious to maintain ; opposed by the very lions of debate in this body, who are cheered on by an applauding gallery and surrounding interests, is enough to produce dismay in one far more able and eloquent than the *lone* and humble individual who now addresses you.

What, sir, can there be to induce me to appear on this public arena, opposed by such powerful odds ? Nothing, sir, nothing but a strong sense of duty, and a deep conviction that the cause I advocate is just ; that the petitioners whom I represent are honest, upright, intelligent and respectable citizens ; men who love their country, who are anxious to promote its best interests, and who are actuated by the purest patriotism, as well as the deepest philanthropy and benevolence. In representing such men, and in such a cause, though by the most feeble means, one would suppose that, on the floor of the Senate of the United States, order, and a decent respect to the opinions of others, would prevail. From the causes which I have mentioned, I can hardly hope for this. I expect to proceed through scenes which ill become this hall ; but nothing shall deter me from a full and faithful discharge of my duty on this important occasion. Permit me, sir, to remind gentlemen that I have been now six years a member of this body. I have seldom, perhaps too seldom, in the opinion of many of my constituents, pressed myself upon the notice of the Senate, and taken up their time in useless and windy debate. I question very much if I have occupied the time of the Senate during the six years as some gentlemen have during six weeks, or even six days. I hope, therefore, that I shall not be thought obtrusive, or charged with taking up time with abolition petitions. I hope, Mr. President, to hear no more about agitating this slave question here. Who has began the agitation now ? The Senator from Kentucky [Mr. Clay.] Who has responded to that agitation, and congratulated the Senate and the country on its results ? The Senator from South Carolina, Mr. [Calhoun.] And pray,



sir, under what circumstances is this agitation begun? Let it be remembered, let us collect the facts from the records on your table, that when I, as a member of this body, but a few days since offered a resolution as the foundation of proceedings on these petitions, gentlemen, as if operated on by an electric shock, sprung from their seats and objected to its introduction. And when you, sir, decided that it was the right of every member to introduce such motion or resolution as he pleased, being responsible to his constituents and this body for the abuse of this right, gentlemen seemed to wonder that the Senate had no power to prevent the action of one of its members in cases like this, and the poor privilege of having the resolution printed, by order of the Senate, was denied.

Let the Senator from South Carolina before me remember that, at the last session, when he offered resolutions on the subject of slavery, they were not only received without objection, but printed, voted on, and decided; and let the Senator from Kentucky reflect, that the petition which he offered against our right, was also received and ordered to be printed without a single dissenting voice; and I call on the Senate and the country to remember, that the resolutions which I have offered on the same subject have not only been refused the printing, but have been laid on the table without being debated or referred. Posterity, which shall read the proceedings of this time, may well wonder what power could induce the Senate of the United States to proceed in such a strange and contradictory manner. Permit me to tell the country now what this power behind the throne, greater than the throne itself, is. It is the power of SLAVERY. It is a power, according to the calculation of the Senator from Kentucky, which owns twelve hundred millions of dollars in human beings as property; and if money is power, this power is not to be conceived or calculated; a power which claims human property more than double the amount which the whole money of the world could purchase. What can stand before this power? Truth, everlasting truth, will yet overthrow it. This power is aiming to govern the country, its constitutions and laws; but it is not certain of success, tremendous as it is, without foreign or other aid. Let it be borne in mind that the Bank power, some years since, during what has been called the panic session, had influence sufficient in this body, and upon this floor, to prevent the reception of petitions against the action of the Senate on their resolutions of censure against the President. The country took instant alarm, and the political complexion of this body was changed as soon as possible. The same power, though double in means and in strength, is now doing the

same thing. This is the array of power that even now is attempting such an unwarrantable course in this country ; and the people are all so now moving against the slave, as they formerly did against the Bank power. It, too, begins to tremble for its safety. What is to be done ? Why, petitions are received and ordered to be printed, against the right of petitions which are not received, and the whole power of debate is thrown into the scale with the slaveholding power. But all will not do ; these two powers must now be united : an amalgamation of the black power of the South with the white power of the North must take place, as either, separately, cannot succeed in the destruction of the liberty of speech and the press, and the right of petition. Let me tell gentlemen, that both united will never succeed ; as I said on a former day, God forbid that they should ever rule this country ! I have seen this billing and cooing between these different interests for some time past ; I informed my private friends of the political party with which I have heretofore acted, during the first week of this session, that these powers were forming a union to overthrow the present administration ; and I warned them of the folly and mischief they were doing in their abuse of those who were opposed to slavery. All doubts are now terminated. The display made by the Senator from Kentucky, [Mr. Clay,] and his denunciations of these petitioners as abolitionists, and the hearty response and cordial embrace which his efforts met from the Senator from South Carolina, [Mr. Calhoun,] clearly shows that new moves have taken place on the political chess-board, and new coalitions are formed, new compromises and new bargains, settling and disposing of the rights of the country for the advantage of political aspirants.

The gentleman from South Carolina [Mr. Calhoun] seemed, at the conclusion of the argument made by the Senator from Kentucky, to be filled not only with delight but with ecstasy. He told us, that about twelve months since HE had offered a resolution which turned the tide in favor of the great principle of State rights, and says he is highly pleased with the course taken by the Kentucky Senator. All is now safe by the acts of that Senator. The South is now consolidated as one man ; it was a great epoch in our history, but we have now passed it ; it is the beginning of a moral revolution ; slavery, so far from being a political evil, is a great blessing ; both races have been improved by it ; and that abolition is now DEAD, and will soon be forgotten. So far the Senator from South Carolina, as I understand him. But, sir, is this really the case ? Is the South united as one man, and is the Senator from Kentucky the great centre of attraction ? What

a lesson to the friends of the present Administration, who have been throwing themselves into the arms of the southern slave-power for support! The black enchantment I hope is now at an end—the dream dissolved, and we awake into open day. No longer is there any uncertainty or any doubt on this subject. But is the great epoch passed? is it not rather just beginning? Is abolitionism DEAD—or is it just awaking into life? Is the right of petition strangled and forgotten—or is it increasing in strength and force? These are serious questions for the gentleman's consideration, that may damp the ardor of his joy, if examined with an impartial mind, and looked at with an unprejudiced eye. Sir, when these pæans were sung over the death of abolitionists, and, of course, their right to liberty of speech and the press, at least in fancy's eye, we might have seen them lying in heaps upon heaps, like the enemies of the strong man in days of old. But let me bring back the gentleman's mind from this delightful scene of abolition death, to sober realities and solemn facts. I have now lying before me the names of thousands of living witnesses, that slavery has not entirely conquered liberty; that abolitionists (for so are all these petitioners called) are not *all dead*. These are my first proofs to show the gentleman his ideas are all fancy. I have also, sir, since the commencement of this debate, received a newspaper, as if sent by Providence to suit the occasion, and by whom I know not. It is the Cincinnati Republican of the 2d instant, which contains an extract from the Louisville Advertiser, a paper printed in Kentucky, in Louisville, our sister city; and though about one hundred and fifty miles below us, it is but a few hours distant. That paper is the leading Administration journal, too, as I am informed, in Kentucky. Hear what it says on the death of abolition:—

“ABOLITION—CINCINNATI—THE LOUISVILLE ADVERTISER.

“We copy the following notice of an article which we lately published, upon the subject of abolition movements in this quarter, from the Louisville Advertiser:—

‘ABOLITION.—The reader is referred to an interesting article which we have copied from the Cincinnati Republican—a paper which lately supported the principles of Democracy; a paper which has *turned*, but not quite far enough to act with the Adamses and Slades in Congress, or the Whig abolitionists of Ohio. It does not, however, give a correct view of the strength of the abolitionists in Cincinnati. There they are in the ascendant. They control the city elections, regulate what may be termed the morals of the city, give tone to public opinion, and

"rule the roast," by virtue of their superior piety and intelligence. The Republican tells us, that they are not laboring Loco Focos—but "drones" and "consumers"—the "rich and well-born," of course; men who have leisure and means, and a disposition to employ the latter, to equalize whites and blacks in the slaveholding States. Even now, the absconding slave is perfectly safe in Cincinnati. We doubt whether an instance can be adduced of the recovery of a runaway in that place in the last four years. When negroes reach "the Queen city" they are protected by its intelligence, its piety, and its wealth. They receive the aid of the *élite* of the Buckeyes; and we have a strong faction in Kentucky, struggling zealously to make her one of the dependencies of Cincinnati! Let our mutual sons go on. The day of mutual retribution is at hand—much nearer than is now imagined. The Republican, which still looks with a friendly eye to the slaveholding States, warns us of the danger which exists, although its new-born zeal for Whiggery prompts it to insist, indirectly, on the right of petitioning Congress to abolish slavery. There are about two hundred and fifty abolition societies in Ohio at the present time, and, from the circular issued at head quarters, Cincinnati, it appears that agents are to be sent through every county to distribute books and pamphlets designed to inflame the public mind, and then organize additional societies—or, rather, form new clans, to aid in the war which has been commenced on the slaveholding States.'"

I do not, sir, underwrite for the truth of this statement as an entire whole; much of it I repel as an unjust charge on my fellow-citizens of Cincinnati; but, as it comes from a slaveholding State—from the State of the Senator who has so eloquently anathematized abolitionists that it is almost a pity they could not die under such sweet sounds—and as the South Carolina Senator pronounces them dead, I produce this from a slaveholding State, for the special benefit and consolation of the two Senators. It comes from a source to which, I am sure, both gentlemen ought to give credit. But suppose, sir, that abolitionism is dead, is liberty dead also and slavery triumphant? Is liberty of speech, of the press, and the right of petition also dead? True, it has been strangled here; but gentlemen will find themselves in great error if they suppose it also strangled in the country; and the very attempt, in legislative bodies, to sustain a local and individual interest, to the destruction of our rights, proves that those rights are not dead, but a living principle, which slavery cannot extinguish; and be my lot what it may, I shall, to the utmost of my abilities, under all circumstances, and at all times, contend for that freedom which is the common gift of

the Creator to all men, and against the power of these two great interests—the slave power of the South, and banking power of the North—which are now uniting to rule this country. The cotton bale and the bank note have formed an alliance; the credit system with slave labor. These two congenial spirits have at last met and embraced each other, both looking to the same object—to live upon the unrequited labor of others—and have now erected for themselves a common platform, as was intimated during the last session, on which they can meet, and bid defiance, as they hope, to free principles and free labor.

With these introductory remarks, permit me, sir, to say here, and let no one pretend to misunderstand or misrepresent me, that I charge gentlemen, when they use the word abolitionists, they mean petitioners here such as I now present—men who love liberty, and are opposed to slavery—that in behalf of these citizens I speak; and, by whatever name they may be called, it is those who are opposed to slavery whose cause I advocate. I make no war upon the rights of others. I do no act but what is moral, constitutional, and legal, against the peculiar institutions of any State; but acts only in defence of my own rights, of my fellow citizens, and, above all, of my State, I shall not cease while the current of life shall continue to flow.

I shall, Mr. President, in the further consideration of this subject, endeavor to prove, first, the right of the people to petition; second, why slavery is wrong, and why I am opposed to it; third, the power of slavery in this country, and its dangers; next, answer the question, so often asked, what have the free States to do with slavery? Then make some remarks by way of answer to the arguments of the Senator from Kentucky, [Mr. Clay.]

Mr. President, the duty I am requested to perform, is one of the highest which a Representative can be called on to discharge. It is to make known to the legislative body the will and the wishes of his constituents and fellow-citizens; and, in the present case, I feel honored by the confidence reposed in me, and proceed to discharge the duty. The petitioners have not trusted to my fallible judgment alone, but have declared, in written documents, the most solemn expression of their will. It is true these petitions have not been sent here by the whole people of the United States, but from a portion of them only; yet such is the justice of their claim, and the sure foundation upon which it rests, that no portion of the American people, until a day or two past, have thought it either safe or expedient to present counter petitions; and even now, when counter petitions have been presented,

they dare not justify slavery, and the selling of men and women in this District, but content themselves with objecting to others enjoying the rights they practise, and praying Congress not to receive or hear petitions from the people of the States—a new device of slave power this, never before thought of or practised in any country. I would have been gratified if the inventors of this system, which denies to others what they practise themselves, had, in their petition, attempted to justify slavery and the slave trade in the District, if they believe the practice just, that their names might have gone down to posterity. No, sir; very few yet have the moral courage to record their names to such an avowal; and even some of these petitioners are so squeamish on this subject, as to say that they might, from conscientious principles, be prevented from holding slaves. Not so, sir, with the petitioners which I have the honor to represent; they are anxious that their sentiments and their names should be made matter of record; they have no qualms of conscience on this subject; they have deep convictions and a firm belief that slavery is an existing evil, incompatible with the principles of political liberty, at war with our system of government, and extending a baleful and blasting influence over our country, withering and blighting its fairest prospects and brightest hopes. Who has said that these petitions are unjust in principle, and on that ground ought not to be granted? Who has said that slavery is not an evil? Who has said it does not tarnish the fair fame of our country? Who has said it does not bring dissipation and feebleness to one race, and poverty and wretchedness to another, in its train? Who has said, it is not unjust to the slave, and injurious to the happiness and best interest of the master? Who has said it does not break the bonds of human affection, by separating the wife from the husband, and children from their parents? In fine, who has said it is not a blot upon our country's honor, and a deep and foul stain upon her institutions? Few, very few, perhaps none but him who lives upon its labor, regardless of its misery; and even many whose local situations are within its jurisdiction, acknowledge its injustice, and deprecate its continuance; while millions of freemen deplore its existence, and look forward with strong hope to its final termination. **SLAVERY!** a word, like a secret idol, thought too obnoxious or sacred to be pronounced here but by those who worship at its shrine—and should one who is not such worshipper happen to pronounce the word, the most disastrous consequences are immediately predicted, the Union is to be dissolved, and the South to take care of itself.

Do not suppose, Mr. President, that I feel as if engaged in a for-



hidden or improvident act. No such thing. I am contending with a local and "*peculiar*" interest, an interest which has already banded together with a force sufficient to seize upon every avenue by which a petition can enter this chamber, and exclude all without its leave. I am not now contending for the rights of the negro, rights which his Creator gave him and which his fellow-man has usurped or taken away. No, sir! I am contending for the rights of the white person in the free States, and am endeavoring to prevent them from being trodden down and destroyed by that power which claims the black person as *property*. I am endeavoring to sound the alarm to my fellow-citizens that this power, tremendous as it is, is endeavoring to unite itself with the monied power of the country, in order to extend its dominion and perpetuate its existence. I am endeavoring to drive from the back of the *negro slave* the politician who has seated himself there to ride into office for the purpose of carrying out the object of this unholy combination. The chains of slavery are sufficiently strong, without being riveted anew by tinkering politicians of the free States. I feel myself compelled into this contest, in defence of the institutions of my own State, the persons and firesides of her citizens, from the insatiable grasp of the slaveholding power as being used and felt in the free States. To say that I am opposed to slavery in the abstract, are but cold and unmeaning words, if, however capable of any meaning whatever, they may fairly be construed into a love for its existence; and such I sincerely believe to be the feeling of many in the free States who use the phrase. I, sir, am not only opposed to slavery in the abstract, but also in its whole volume, in its theory as well as practice. This principle is deeply implanted within me; it has "grown with my growth and strengthened with my strength." In my infant years I learned to hate slavery. Your fathers taught me it was wrong in their Declaration of Independence: the doctrines which they promulgated to the world, and upon the truth of which they staked the issue of the contest that made us a nation. They proclaimed "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that amongst these are life, liberty, and the pursuit of happiness." These truths are solemnly declared by them. I believed then, and believe now, they are self-evident. Who can acknowledge this, and not be opposed to slavery? It is, then, because I love the principles which brought your government into existence, and which have become the corner stone of the building supporting you, sir, in that chair, and giving to myself and other Senators seats in this body—it is because I love all this, that I hate slavery. Is

it because I contend for the right of petition, and am opposed to slavery, that I have been denounced by many as an abolitionist? Yes; Virginia newspapers have so denounced me, and called upon the Legislature of my State to dismiss me from public confidence. Who taught me to hate slavery, and every other oppression? Jefferson, the great and the good Jefferson! Yes, *Virginia Senators*, it was your own Jefferson, Virginia's favorite son, a man who did more for the natural liberty of man, and the civil liberty of his country, than any man that ever lived in our country; it was him who taught me to hate slavery; it was in his school I was brought up. That Mr. Jefferson was as much opposed to slavery as any man that ever lived in our country, there can be no doubt; his life and his writings abundantly prove the fact. I hold in my hand a copy, as he penned it, of the original draft of the Declaration of Independence, a part of which was stricken out, as he says, in compliance with the wishes of South Carolina and Georgia. I will read it. Speaking of the wrongs done us by the British Government, in introducing slaves among us, he says: "He (the British King) has waged cruel war against human nature itself, violating its most sacred right of life and liberty in the persons of a distant people, who never offended him, captivating and carrying them into SLAVERY in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain. Determined to keep open a market where MEN should be bought and SOLD, he has prostituted his prerogative for suppressing every legislative attempt to prohibit or restrain execrable commerce, and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms against us, and purchase that liberty of which he has deprived them by murdering the people on whom he has also obtruded them, thus paying off former crimes committed against the liberties of one people with crimes which he urges them to commit against the lives of another." Thus far this great statesman and philanthropist. Had his contemporaries been ruled by his opinions, the country had now been at rest on this exciting topic. What abolitionist, sir, has used stronger language against slavery than Mr. Jefferson has done? "Cruel war against human nature," "violating its most sacred rights," "piratical warfare," "opprobrium of infidel powers," "a market where men should be bought and sold," "execrable commerce," "assemblage of horrors," "crimes committed against the liberty of the people," are the brands which Mr. Jefferson has burned into the forehead of slavery and the slave trade. When,



sir, have I, or any other person opposed to slavery, spoken in stronger and more opprobrious terms of slavery, than this? You have caused the bust of this great man to be placed in the centre of your Capitol, in that conspicuous part where every visiter must see it, with its hand resting on the Declaration of Independence, engraved upon marble. Why have you done this? Is it not mockery? Or is it to remind us continually of the wickedness and danger of slavery? I never pass that statue without new and increased veneration for the man it represents, and increased repugnance and sorrow that he did not succeed in driving slavery entirely from the country. Sir, if I am an abolitionist, Jefferson made me so; and I only regret that the disciple should be so far behind the master, both in doctrine and practice. But, sir, other reasons and other causes have combined to fix and establish my principles in this matter, never, I trust, to be shaken. A free State was the place of my birth; a free Territory the theatre of my juvenile actions. Ohio is my country, endeared to me by every fond recollection. She gave me political existence, and taught me in her political school; and I should be worse than an unnatural son did I forget or disobey her precepts. In her Constitution it is declared, "That all men are born equally free and independent," and "that there shall be neither slavery nor involuntary servitude in the State, otherwise than for the punishment of crimes." Shall I stand up for slavery in any case, condemned as it is by such high authority as this? No, never! But this is not all, Indiana, our younger Western sister, endeared to us by every social and political tie, a State formed in the same country as Ohio, from whose territory slavery was forever excluded by the ordinance of July, 1787—she too, has declared her abhorrence of slavery in more strong and empathic terms than we have done. In her constitution, after prohibiting slavery, or involuntary servitude, being introduced into the State, she declares, "But as to the holding any part of the human creation in slavery, or involuntary servitude, can originate only in *tyranny* and *usurpation*, no alteration of her constitution should ever take place, so as to introduce slavery or involuntary servitude into the State, otherwise than for the punishment of crimes whereof the party had been duly convicted." Illinois and Michigan also formed their constitutions on the same principles. After such a cloud of witnesses against slavery, and whose testimony is so clear and explicit, as a citizen of Ohio, I should be recreant to every principle of honor and of justice, to be found the apologist or advocate of slavery in any State, or in any country whatever. No, I cannot be so inconsistent as to say I am opposed to slavery in the *abstract*, in its separation from a human

being, and still lend my aid to build it up, and make it perpetual in its operation and effects upon *man* in this or any other country. I also, in early life, saw a slave kneel before his master, and hold up his hands with as much apparent submission, humility, and adoration, as a man would have done before his Maker, while his master with outstretched rod stood over him. This, I thought, is slavery; one man subjected to the will and power of another, and the laws affording him no protection, and he has to beg pardon of man, because he has offended man, (not the laws,) as if his master were a superior and all powerful being. Yes, this is slavery, boasted American slavery, without which, it is contended even here, that the union of these States would be dissolved in a day, yes, even in an hour! Humiliating thought, that we are bound together as States by the chains of slavery! It cannot be—the blood and the tears of slavery form no part of the cement of our Union—and it is hoped that by falling on its bands they may never corrode and eat them asunder. We who are opposed to and deplore the existence of slavery in our country, are frequently asked, both in public and private, what have you to do with slavery? It does not exist in your State; it does not disturb you! Ah, sir, would to God it were so—that we had nothing to do with slavery, nothing to fear from its power, or its action within our own borders, that its name and its miseries were unknown to us. But this is not our lot; we live upon its borders, and in hearing of its cries; yet we are unwilling to acknowledge, that if we enter its territories and violate its laws, that we should be punished at its pleasure. We do not complain of this, though it might well be considered just ground of complaint. It is our firesides, our rights, our privileges, the safety of our friends, as well as the sovereignty and independence of our State, that we are now called upon to protect and defend. The slave interest has at this moment the whole power of the country in its hands. It claims the President as a Northern man with Southern feelings, thus making the Chief Magistrate the head of an interest, or a party, and not of the country and the people at large. It has the cabinet of the President, three members of which are from the slave States, and one who wrote a book in favor of Southern slavery, but which fell dead from the press, a book which I have seen, in my own family, thrown musty upon the shelf. Here then is a decided majority in favor of the slave interest. It has five out of nine judges of the Supreme Court; here, also, is a majority from the slave States. It has, with the President of the Senate, and the Speaker of the House of Representatives, and the Clerks of both Houses, the army and the navy; and the

bureaus, have, I am told, about the same proportion. One would suppose that, with all this power operating in this Government, it would be content to *permit*—yes I will use the word *permit*—it would be content to permit us, who live in the free States, to enjoy our firesides and our homes in quietness ; but this is not the case. The slaveholders and slave laws claim that as property, which the free States know only as persons, a reasoning property, which, of its own will and mere motion, is frequently found in our States ; and upon which thing we sometimes bestow food and raiment, if it appear hungry and perishing, believing it to be a human being ; this perhaps is owing to our want of vision to discover the process by which a man is converted into a thing. For this act of ours, which is not prohibited by our laws, but prompted by every feeling, Christian and humane, the slaveholding power enters our territory, tramples under foot the sovereignty of our State, violates the sanctity of private residence, seizes our citizens, and disregarding the authority of our laws, transports them into its own jurisdiction, casts them into prison, confines them in fetters, and loads them with chains, for pretended offences against their own laws, found by willing grand juries upon the oath (to use the language of the late Governor of Ohio) of a perjured villain. Is this fancy, or is it fact, sober reality, solemn fact ? Need I say all this, and much more, as now matter of history in the case of the Rev. John B. Mahan, of Brown county, Ohio ? Yes, it is so ; but this is but the beginning—a case of equal outrage has lately occurred, if newspapers are to be relied on, in the seizure of a citizen of Ohio, without even the forms of law, and who was carried into Virginia and shamefully punished by tar and feathers, and other disgraceful means, and rode upon a rail, according to the order of Judge Lynch, and this, only because in Ohio he was an abolitionist. Would I could stop here—but I cannot. This slave interest or power seizes upon persons of color in our States, carries them into States where men are property, and makes merchandize of them, sometimes under sanction of law, but more properly by its abuse, and sometimes by mere personal force, thus disturbing our quiet and harassing our citizens. A case of this kind has lately occurred, where a colored boy was seduced from Ohio into Indiana, taken from thence into Alabama and sold as a slave ; and to the honor of the slave States, and gentlemen who administer the laws there, be it said, that many who have thus been taken and sold by the connivance, if not downright corruption, of citizens in the free States, have been liberated and adjudged free in the States where they have been sold, as was the case of the boy mentioned, who was sold in Alabama.

Slave power is seeking to establish itself in every State, in defiance of the constitution and laws of the States within which it is prohibited. In order to secure its power beyond the reach of the States, it claims its parentage from the Constitution of the United States. It demands of us total silence as to its proceedings, denies to our citizens the liberty of speech and the press, and punishes them by mobs and violence for the exercise of these rights. It has sent its agents into the free States for the purpose of influencing their Legislatures to pass laws for the security of its power within such State, and for the enacting new defences and new punishments for their own citizens, so as to give additional security to its interest. It demands to be heard in its own person in the hall of our Legislature, and mingle in debate there. So in every stage of these oppressions and abuses, permit me to say, in the language of the Declaration of Independence—and no language could be more appropriate—we have petitioned for redress in the most humble terms, and our repeated petitions have been answered by repeated injury. A power, whose character is marked by every act which may define a tyrant, is unfit to rule over a free people. In our sufferings and our wrongs we have besought our fellow-citizens to aid us in the preservation of our constitutional rights, but, influenced by the love of gain or arbitrary power, they have sometimes disregarded all the sacred rights of man, and answered in violence, burnings, and murder. After all these transactions, which are now of public notoriety and matter of record, shall we of the free States tauntingly be asked what we have to do with slavery? We should rejoice, indeed, if the evils of slavery were removed far from us, that it could be said with truth, that we have nothing to do with slavery. Our citizens have not entered its territories for the purpose of obstructing its laws, nor do we wish to do so, nor would we justify any individual in such act; yet we have been branded and stigmatized by its friends and advocates, both in the free and slave States, as incendiaries, fanatics, disorganizers, enemies to our country, and as wishing to dissolve the Union. We have borne all this without complaint or resistance, and only ask to be secure in our persons, by our own firesides, and in the free exercise of our thoughts and opinions in speaking, writing, printing and publishing on the subject of slavery, that which appears to us to be just and right; because we all know the power of truth, and that it will ultimately prevail, in despite of all opposition. But in the exercise of all these rights, we acknowledge subjection to the laws of the State in which we are, and our liability for their abuse. We wish peace with all men; and that the most amicable relations and

free intercourse may exist between the citizens of our State and our neighboring slaveholding States; we will not enter their States, either in our proper persons, or by commissioners, legislative resolutions, or otherwise, to interfere with their slave policy or slave laws; and we shall expect from them and their citizens a like return, that they do not enter our territories for the purpose of violating our laws in the punishment of our people for the exercise of their undoubted rights—the liberty of speech and of the press on the subject of slavery. We ask that no man shall be seized and transported beyond our State, in violation of our own laws, and that we shall not be carried into and imprisoned in another State for acts done in our own. We contend that the slaveholding power is properly chargeable with all the riots and disorders which take place on account of slavery. We can live in peace with all our sister States; if that power will be controlled by law, each can exercise and enjoy the full benefits secured by their own laws; and this is all we ask. If we hold up slavery to the view of an impartial public as it is, and if such view creates astonishment and indignation, surely we are not to be charged as libellers. A State institution ought to be considered the pride, not the shame of the State; and if we falsify such institutions, the disgrace is ours, not theirs. If slavery, however, is a blemish, a blot, an eating cancer in the body politic, it is not our fault if, by holding it up, others should see in the mirror of truth its deformity, and shrink back from the view. We have not, and we intend not, to use any weapons against slavery, but the moral power of truth and the force of public opinion. If we enter the slave States, and tamper with the slave contrary to law, punish us, we deserve it; and if a slaveholder is found in a free State, and is guilty of a breach of the law there, he also ought to be punished. These petitioners, as far as I understand them, disclaim all right to enter a slave State for the purpose of intercourse with the slave. It is the master whom they wish to address; and they ask and ought to receive protection from the laws, as they are willing to be judged by the laws. We invite into the arena of public discussion in our State the slaveholder; we are willing to hear his reasons and facts in favor of slavery, or against abolitionists: we do not fear his errors while we are ourselves free to combat them. The angry feelings which in some degree exist between the citizens of the free and slaveholding States, on account of slavery, are, in many cases, properly chargeable to those who defend and support slavery. Attempts are almost daily making to force the execution of slave laws in the free States; at least, their power and principles: and no term is too reproachful to be ap-

plied to those who resist such acts, and contend for the rights secured to every man under their own laws. We are often reminded that we ought to take color as evidence of property in a human being. We do not believe in such evidence, nor do we believe that a man can justly be made property by human laws. We acknowledge, however, that a *man*, not a *thing*, may be held to service or labor under the laws of a State, and, if he escape into another State, he ought to be delivered up on claim of the party to whom such labor or service may be due; that this delivery ought to be in pursuance of the laws of the State where such person is found, and not by virtue of any act of Congress.

This brings me, Mr. President, to the consideration of the petition presented by the Senator from Kentucky, and to an examination of the views he has presented to the Senate on this highly important subject. Sir, I feel, I sensibly feel my inadequacy in entering into a controversy with that old and veteran Senator; but nothing high or low shall prevent me from an honest discharge of my duty here. If imperfectly done, it may be ascribed to the want of ability, not intention. If the power of my mind, and the strength of my body, were equal to the task, I would arouse every man, yes, every woman and child in the country, to the danger which besets them, if such doctrines and views as are presented by the Senator should ever be carried into effect. His denunciations are against abolitionists, and under that term are classed all those who petition Congress on the subject of slavery. Such I understand to be his argument, and as such I shall treat it. I, in the first place, put in a broad denial to all his general facts, charging this portion of my fellow citizens with improper motives or dangerous designs. That their acts are lawful he does not pretend to deny. I called for proof to sustain his charges. None such has been offered, and none such exists, or can be found. I repel them as calumnies double-distilled in the alembic of slavery. I deny them, also, in the particulars and inferences; and let us see upon what ground they rest, or by what process of reasoning they are sustained.

The very first view of these petitioners against our right of petition strikes the mind that more is intended than at first meets the eye. Why was the committee on the District overlooked in this case, and the Senator from Kentucky made the organ of communication? Is it understood that anti-abolitionism is a passport to popular favor, and that the action of this District shall present for that favor to the public a gentleman upon this hobby? Is this petition presented as a subject of fair legislation? Was it solicited by members of Congress, from



citizens here, for political effect? Let the country judge. The petitioners state that no persons but themselves are authorized to interfere with slavery in the District; that Congress are their own Legislature; and the question of slavery in the District is only between them and their constituted legislators; and they protest against all interference of others. But, sir, as if ashamed of this open position in favor of slavery, they, in a very coy manner, say that some of them are not slaveholders, and might be forbidden by conscience to hold slaves. There is more dictation, more political heresy, more dangerous doctrine contained in this petition, than I have ever before seen couched together in so many words. We! Congress their own Legislature in all that concerns this District! Let those who may put on the city livery, and legislate for them and not for his constituents, do so; for myself, I came here with a different view, and for different purposes. I came a free man, to represent the people of Ohio; and I intend to leave this as such representative, without wearing any other livery. Why talk about executive usurpation and influence over the members of Congress? I have always viewed this District influence as far more dangerous than that of any other power. It has been able to extort, yes, extort from Congress, millions to pay District debts, make District improvements, and in support of the civil and criminal jurisprudence of the District. Pray, sir, what right has Congress to pay the corporate debts of the cities in the District more than the Debts of the corporate cities in your State and mine? None, sir. Yet this has been done to a vast amount; and the next step is, that we, who pay all this, shall not be permitted to petition Congress on the subject of their institutions, for, if we can be prevented in one case, we can in all possible cases. Mark, sir, how plain a tale will silence these petitioners. If slavery in the District concerns only the inhabitants and Congress, so does all municipal regulations. Should they extend to granting lottery, gaming-houses, tippling-houses, and other places calculated to promote and encourage vice—should a representative in Congress be instructed by his constituents to use his influence, and vote against such establishments, and the people of the District should instruct him to vote for them, which should he obey? To state the question is to answer it; otherwise the boasted right of instruction by the constituent body is “mere sound,” signifying nothing. Sir, the inhabitants of this district are subject to state legislation and state policy; they cannot complain of this, for their condition is voluntary; and as this city is the focus of power, of influence, and considered also as that of fashion, if not of folly, and as the streams which flow from

here irradiate the whole country, it is right, it is proper, that it should be subject to state policy and state power, and not used as a leaven to ferment and corrupt the whole body politic.

The honorable Senator has said the petition, though from a city, is the fair expression of the opinion of the District. As such I treated it, am willing to acknowledge the respectability of the petitioners and their rights, and I claim for the people of my own state equal respectability and equal rights that the people of the District are entitled to : any peculiar rights and advantages I cannot admit.

I agree with the Senator, that the proceedings on abolition petitions, heretofore, have not been the most wise and prudent course. They ought to have been referred and acted on. Such was my object, a day or two since, when I laid on your table a resolution to refer them to a committee for inquiry. You did not suffer it, sir, to be printed. The country and posterity will judge between the people whom I represent and those who caused to be printed the petition from the city. It cannot be possible that justice can have been done in both cases. The exclusive legislation of Congress over the District is as much the act of the constituent body, as the general legislation of Congress over the States, and to the operation of this act have the people within the District submitted themselves. I cannot, however, join the Senator that the majority, in refusing to receive and refer petitions, did not intend to destroy or impair the right in this particular. They certainly have done so.

The Senator admits the abolitionists are now formidable ; that something must be done to produce harmony. Yes, sir, do justice, and harmony will be restored. Act impartially, that justice may be done : hear petitions on both sides, if they are offered, and give righteous judgments, and your people will be satisfied. You cannot compromise them out of their rights, nor lull them to sleep with fallacies in the shape of reports. You cannot conquer them by rebuke, nor deceive them by sophistry. Remember you cannot now turn public opinion, nor can you overthrow it. You must, and you will, abandon the high ground you have taken, and receive petitions. The reason of the case, the argument and the judgment of the people, are all against you. One in this cause can "chase a thousand," and the voice of justice will be heard whenever you agitate the subject. In Indiana, the right to petition has been most nobly advocated in a protest, by a member, against some puny resolutions of the Legislature of that State to whitewash slavery. Permit me to read a paragraph, worthy an American freeman :



"But who would have thought until lately, that any would have doubted the right to petition in a respectful manner to Congress? Who would have believed, that Congress had any authority to refuse to consider the petitions of the people? Such a step would overthrow the autocrat of Russia, or cost the Grand Signior of Constantinople his head. Can it be possible, therefore, that it has been reserved for a republican Government, in a land boasting of its free institutions, to set the first precedent of this kind? Our city councils, our courts of justice, every department of Government are approached by petition, however unanswerable, or absurd, so that its terms are respectful. None go away unread, or unheard. The life of every individual is a perfect illustration of the subject of petitioning. Petition is the language of want, of pain, of sorrow, of man in all his sad variety of woes, imploring relief, at the hand of some power superior to himself. Petitioning is the foundation of all government, and of all administrations of law. Yet it has been reserved for our Congress, seconded indirectly by the vote of this Legislature, to question this right, hitherto supposed to be so old, so heaven-deeded, so undoubted, that our fathers did not think it necessary to place a guaranty of it in the first draft of the Federal Constitution. Yet this sacred right has been, at one blow, driven, destroyed, and trodden under the feet of slavery. The old bulwarks of our Federal and State Constitutions seem utterly to have been forgotten, which declare, 'that the freedom of speech and the press shall not be abridged, nor the right of the people peaceably to assemble and *petition* for the redress of their grievances.'"

These, sir, are the sentiments which make abolitionists formidable, and set at nought all your councils for their overthrow. The honorable Senator not only admits that abolitionists are formidable, but that they consist of three classes. The friends of humanity and justice, or those actuated by those principles, compose one class. These form a very numerous class, and the acknowledgment of the Senator proves the immutable principles upon which opposition to slavery rests. Men are opposed to it from principles of humanity and justice — men are abolitionists, he admits, on that account. We thank the Senator for teaching us that word, we intend to improve it. The next class of abolitionists, the Senator says, are so, apparently, for the purpose of advocating the right of petition. What are we to understand from this? That the right of petition needs advocacy. Who has denied this right, or who has attempted to abridge it? The slaveholding power, that power which avoids open discussion, and the free exercise of opinion: it is that power alone which renders the ad-

vocacy of the right of petition necessary, having seized upon all the powers of the Government. It is fast uniting together those opposed to its iron rule, no matter to what political party they have heretofore belonged; they are uniting with the first class, and act from principles of humanity and justice; and if the mists and shades of slavery were not the atmosphere in which gentlemen were enveloped, they would see constant and increasing numbers of our most worthy and intelligent citizens attaching themselves to the two classes mentioned, and rallying under the banners of abolitionism. They are compelled to go there, if the gentleman will have it so, in order to defend and perpetuate the liberties of the country. The hopes of the oppressed spring up afresh from this discussion of the gentleman.

The third class, the Senator says, are those who, to accomplish their ends, act without regard to consequences. To them, all the rights of property, of the States, of the Union, the Senator says, are nothing. He says they aim at other objects than those they profess—emancipation in the District of Columbia. No, says the Senator, their object is *universal emancipation*, not only in the District, but in the Territories and in the States. Their object is to set free three millions of negro slaves. Who made the Senator, in his place here, the censor of his fellow-citizens? Who authorized him to charge them with other objects than those they profess? How long is it since the Senator himself, on this floor, denounced slavery as an evil? What other inducements or object had he then in view? Suppose universal emancipation to be the object of these petitioners; is it not a noble and praiseworthy object; worthy of the Christian, the philanthropist, the statesman, and the citizen? But the Senator says, they (the petitioners) aim to excite one portion of the country against another. I deny, sir, this charge, and call for the proof; it is gratuitous, uncalled for, and unjust towards my fellow-citizens. This is the language of a stricken conscience, seeking for the palliation of its own acts by charging guilt upon others. It is the language of those who, failing in argument, endeavor to cast suspicion upon the character of their opponents, in order to draw public attention from themselves. It is the language of disguise and concealment, and not that of fair and honorable investigation, the object of which is truth. I again put in a broad denial to this charge, that any portion of these petitioners, whom I represent, seek to excite one portion of the country against another; and without proof I cannot admit that the assertion of the honorable Senator establishes the fact. It is but opinion, and naked assertion only. The Senator complains that the means and views of the abolitionists are not confined to secur-

ing the right of petition only ; no, they resort to other means, he affirms, to the BALLOT BOX ; and if that fail, says the Senator, their next appeal will be to the bayonet. Sir, no man, who is an American in feeling and in heart, but ought to repel this charge instantly, and without any reservation whatever, that if they fail at the ballot box they will resort to the bayonet. If such a fratricidal course should ever be thought of in our country, it will not be by those who seek redress of wrongs, by exercising the right of petition, but by those only who deny that right to others, and seek to usurp the whole power of the Government. If the ballot box fail them, the bayonet may be their resort, as mobs and violence now are. Does the Senator believe that any portion of the honest yeomanry of the country entertain such thoughts ? I hope he does not. If thoughts of this kind exist, they are to be found in the hearts of aspirants to office, and their adherents, and none others. Who, sir, is making this question a political affair ? Not the petitioners. It was the slaveholding power which first made this move. I have noticed for some time past that many of the public prints in this city, as well as elsewhere, have been filled with essays against abolitionists for exercising the rights of freemen.

Both political parties, however, have courted them in private and denounced them in public, and both have equally deceived them. And who shall dare say that an abolitionist has no right to carry his principles to the ballot box ? *Who fears the ballot box ?* The honest in heart, the lover of our country and its institutions ? No, sir ! It is feared by the tyrant ; he who usurps power, and seizes upon the liberty of others ; he, for one, fears the ballot box. Where is the slave to party in this country who is so lost to his own dignity, or so corrupted by interest or power, that he does not, or will not, carry his principles and his judgment into the ballot box ? Such an one ought to have the mark of Cain in his forehead, and sent to labor among the negro slaves of the South. The honorable Senator seems anxious to take under his care the ballot box, as he has the slave system of the country, and direct who shall or who shall not use it for the redress of what they deem a political grievance. Suppose the power of the Executive chair should take under its care the right of voting, and who should proscribe any portion of our citizens who should carry with them to the polls of election their own opinions, creeds, and doctrines. This would at once be a deathblow to our liberties, and the remedy could only be found in revolution. There can be no excuse or pretext for revolution while the ballot box is free. Our Government is not one of force, but of principle ; its foundation rests on public opinion, and its hope is in

the morality of the nation. The moral power of that of the ballot box is sufficient to correct all abuses. Let me, then, proclaim here, from this high arena, to the citizens not only of my own State, but to the country, to all sects and parties who are entitled to the right of suffrage. **TO THE BALLOT BOX!** carry with you honestly your own sentiments respecting the welfare of your country, and make them operate as effectually as you can, through that medium, upon its policy and for its prosperity. Fear not the frowns of power. It trembles while it denounces you. The Senator complains that the abolitionists have associated with the politics of the country. So far as I am capable of judging this charge is not well founded; many politicians of the country have used abolitionists as stepping stones to mount into power; and, when there, have turned about and traduced them. He admits that political parties are willing to unite with them any class of men, in order to carry their purposes. Are abolitionists, then, to blame if they pursue the same course? It seems the Senator is willing that his party should make use of even abolitionists; but he is not willing that abolitionists should use the same party for their purpose. This seems not to be in accordance with that equality of rights about which we heard so much at the last session. Abolitionists have nothing to fear. If public opinion should be for them, politicians will be around and amongst them as the locusts of Egypt. The Senator seems to admit that, if the abolitionists are joined to either party, there is danger—danger of what? That humanity and justice will prevail? that the right of petition will be secured to **ALL EQUALLY**? and that the long-lost and trodden African race will be restored to their natural rights? Would the Senator regret to see this accomplished by argument, persuasion, and the force of an enlightened public opinion? I hope not; and these petitioners ask the use of no other weapons in this warfare.

These ultra-abolitionists, says the Senator, invoke the power of this government to their aid. And pray, sir, what power should they invoke? Have they not the same right to approach this government as other men? Is the Senator or this body authorized to deny them any privileges secured to other citizens? If so, let him show me the charter of his power and I will be silent. Until he can do this, I shall uphold, justify, and sustain them, as I do other citizens. The exercise of power by Congress in behalf of the slaves within this District, the Senator seems to think, no one without the District has the least claim to ask for. It is because I reside without the District, and am called within it by the Constitution, that I object to the existence of slavery here. I deny the gentleman's position, then, on this point. On

this then, we are equal. The Senator, however, is at war with himself. He contends the object of the cession by the States of Virginia and Maryland, was to establish a seat of Government *only*, and to give Congress whatever power was necessary to render the District a valuable and comfortable situation for that purpose, and that Congress have full power to do whatever is necessary for this District; and if to abolish slavery be necessary, to attain the object, Congress have power to abolish slavery in the District. I am sure I quote the gentleman substantially; and I thank him for this precious confession in his argument; it is what I believe, and I know it is all I feel disposed to ask. If we can, then, prove that this District is not as comfortable and convenient a place for the deliberations of Congress, and the comfort of our citizens who may visit it, while slavery exists here, as it would be without slavery, then slavery ought to be abolished; and I trust we shall have the distinguished Senator from Kentucky to aid us in this great national reformation. I take the Senator at his word. I agree with him that this ought to be such a place as he has described; but I deny that it is so. And upon what facts do I rest my denial? We are a Christian nation, a moral and religious people. I speak for the free States, at least for my own State; and what a contrast do the very streets of your capital daily present to the Christianity and morality of the nation? A race of slaves, or at least colored persons, of every hue from the jet black African, in regular gradation, up to the almost pure Anglo-Saxon color. During the short time official duty has called me here, I have seen the really red haired, the freckled, and the almost white negro; and I have been astonished at the numbers of the mixed race, when compared with those of full color, and I have deeply deplored this stain upon our national morals; and the words of Dr. Channing have, thousands of times, been impressed on my mind, that "a slave country reeks with licentiousness." How comes this amalgamation of the races? It comes from slavery. It is a disagreeable annoyance to persons who come from the free States, especially to their Christian and moral feelings. It is a great hindrance to the proper discharge of their duties while here. Remove slavery from this District, and this evil will disappear. We argue this circumstance alone as sufficient cause to produce that effect. But slavery presents within the District other and still more appalling scenes—scenes well calculated to awaken the deepest emotions of the human heart. The slave-trade exists here in all its horrors, and unwhipt of all its crimes. In view of the very chair which you now occupy, Mr. President, if the massy walls of this building, did not prevent it, you could see the prison, the *pen*, the *HELL*, where human beings, when purchased for sale, are kept until a cargo can be procured for transpor-

tation to a Southern or foreign market, for I have little doubt slaves are carried to Texas for sale, though I do not know the fact.

Sir, since Congress have been in session, a mournful group of these unhappy beings, some thirty or forty, were marched, as if in derision of members of Congress, in view of your Capitol, chained and manacled together, in open day-light, yes, in the very face of heaven itself, to be shipped at Baltimore for a foreign market. I did not witness this cruel transaction, but speak from what I have heard and believe. Is this District, then, a fit place for our deliberations, whose feelings are outraged with impunity with transactions like this? Suppose, sir, that mournful and degrading spectacle was at this moment exhibited under the windows of our chamber, do you think the Senate could deliberate, could continue with that composure and attention which I see around me? No, sir; all your powers could not preserve order for a moment. The feelings of humanity would overcome those of regard for the peculiar institutions of the States; and though we would be politically and legally bound not to interfere, we are not morally bound to withhold our sympathy and our execration in witnessing such inhuman traffic. This traffic alone, in this District, renders it an uncomfortable and unfit place for your seat of Government. Sir, it is but one or two years since I saw standing at the railroad depot, as I passed from my boarding house to this chamber, some large wagons and teams, as if waiting for freight; the cars had not then arrived. I was inquired of, when I returned to my lodgings, by my landlady, if I knew the object of those wagons which I saw in the morning. I replied, I did not; I suppose they came and were waiting for loading. 'Yes, for slaves,' said she; 'and one of those wagons was filled with little boys and little girls, who had been bought up through the country, and were to be taken to a southern market. Ah, sir!' continued she, 'it made my very heart ache to see them.' The very recital unnerved and unfitted me for thought or reflection on any other subject for some time. It is scenes like this, of which ladies of my country and my state complained in their petitions, some time since, as rendering this District unpleasant, should they visit the capital of the nation as wives, sisters, daughters, or friends of members of Congress. Yet, sir, these respectable females were treated here with contemptuous sneers; they were compared, on this floor, to the fish-women of Paris, who dipped their fingers in the blood of revolutionary France. Sir, if the transaction in slaves here, which I have mentioned, could make such an impression on the heart of a lady, a resident of the District, one who had been used to slaves, and was probably an owner, what would be the feelings of ladies from free states on beholding



a like transaction? I will leave every gentleman and every lady to answer for themselves. I am unable to describe it. Shall the capital of your country longer exhibit scenes so revolting to humanity, that the ladies of your country cannot visit it without disgust? No; wipe off the foul stain, and let it become a suitable and comfortable place for the seat of Government. The Senator, as if conscious that his argument on this point had proved too much, and of course had proven the converse of what he wished to establish, concluded this part by saying, that if slavery is abolished, the act ought to be confined to the city alone. We thank him for this small sprinkling of correct opinion upon this arid waste of public feeling. Liberty may yet vegetate and grow even here.

The Senator insists that the States of Virginia and Maryland would never have ceded this District if they had have thought slavery would ever have been abolished in it. This is an old story twice told. It was never, however, thought of, until the slave power imagined it, for its own security. Let the States ask a retrocession of the District, and I am sure the free States will rejoice to make the grant.

The Senator condemns the abolitionists for desiring that slavery should not exist in the Territories, even in Florida. He insists that, by the treaty, the inhabitants of that country have the right to remove their EFFECTS when they please; and that, by this condition, they have the right to retain their slaves as effects, independently of the power of Congress. I am no diplomatist, sir, but I venture to deny the conclusion of the Senator's argument. In all our intercourse with foreign nations, in all our treaties in which the words "goods, effects," &c. are used, slaves have never been considered as included. In all cases in which slaves are the subject matter of controversy, they are specially named by the word "slaves; and, if I remember rightly, it has been decided in Congress, that slaves are not property for which a compensation shall be made when taken for public use, (or rather, slaves cannot be considered as taken for public use,) or as property by the enemy, when they are in the service of the United States. If I am correct, as I believe I am, in the positions I have assumed, the gentleman can say nothing, by this part of his argument, against abolitionists, for asking that slavery shall not exist in Florida.

The gentleman contends that the power to remove slaves from one State to another, for sale, is found in that part of the Constitution which gives Congress the power to regulate commerce within the States, &c. This argument is *non sequiter*, unless the honorable Senator can first prove that slaves are proper articles for commerce. We say that Congress have power over slaves only as persons. The United States

can protect persons, *but cannot make them property*, and they have full power in regulating commerce, and can, in such regulations, prohibit from its operations every thing but property; property made so by the laws of nature, and not by any municipal regulations. The dominion of man over things, as property, was settled by his Creator when man was first placed upon the earth. He was to subdue the earth, and have dominion over the fish of the sea, the fowls of the air, and over every living thing that moveth upon the earth; every herb bearing seed, and the fruit of a tree yielding seed, was given for his use. This is the foundation of all right in property of every description. It is for the use of man the grant is made, and of course man cannot be included in the grant. Every municipal regulation, then, of any State, or any of its peculiar institutions, which makes man property, is a violation of this great law of nature, and is founded in usurpation and tyranny, and is accomplished by force, fraud, or an abuse of power. It is a violation of the principles of truth and justice, in subjecting the weaker to the stronger man. In a Christian nation such property can form no just ground for commercial regulations, but ought to be strictly prohibited. I therefore believe it is the duty of Congress, by virtue of this power, to regulate commerce, to prohibit, at once, slaves being used as articles of trade.

The gentleman says, the Constitution left the subject of slavery entirely to the States. To this position I assent; and, as the States cannot regulate their own commerce, but the same being the right of Congress, that body cannot make slaves an article of commerce, because slavery is left entirely to the States in which it exists; and slaves within those States, according to the gentleman, are excluded from the power of Congress. Can Congress, in regulating commerce among the several States, authorize the transportation of articles from one State, and their sale in another, which they have not power so to authorize in any State? I cannot believe in such doctrine; and I now solemnly protest against the power of Congress to authorize the transportation to, and the sale in, Ohio, of any negro slave whatever, or for any possible purpose under the sun. Who is there in Ohio, or elsewhere, that will dare deny this position? If Ohio contains such a recreant to her constitution and policy, I hope he may have the boldness to stand forth and avow it. If the States in which slavery exists love it as a household god, let them keep it there, and not call upon us in us in the free States to offer incense to their idol. We do not seek to touch it with unhallowed hands, but with pure hands, upraised in the cause of truth and suffering humanity.

The gentleman admits that, at the formation of our Government, it



was feared that slavery might eventually divide or distract our country ; and, as the **BALLOT BOX** seems continually to haunt his imagination, he says there is real danger of dissolution of the Union if abolitionists, as is evident they do, will carry their principles into the **BALLOT BOX**. If not disunion in fact, at least in feeling, in the country, which is always the precursor to the clash of arms. And the gentleman further says we are taught by holy writ, " that the race is not to the swift, nor the battle to the strong." The moral of the gentleman's argument is, that truth and righteousness will prevail, though opposed by power and influence ; that abolitionists, though few in number, are greatly to be feared ; one, as I have said, may chase a thousand, and two put ten thousand to flight ; and, as their weapons of warfare are not " carnal, but mighty to the pulling down of strong holds," even slavery itself ; and as the ballot box is the great moral lever in political action, the gentleman would exclude abolitionists entirely from its use, and for opinion's sake, deny them this high privilege of every American citizen. Permit me, sir, to remind the gentleman of another text of holy writ. " The wicked flee when no man pursueth, but the righteous are bold as a lion." The Senator says that those who have slaves, are sometimes supposed to be under too much alarm. Does this prove the application of the text I have just quoted ? " Conscience sometimes makes cowards of us all." The Senator appeals to abolitionists, and beseeches them to cease their efforts on the subject of slavery, if they wish, says he, " to exercise their benevolence." What ! Abolitionists benevolent ! He hopes they will select some object not so terrible. Oh, sir, he is willing they should pay tithes of " mint and rue," but the weightier matters of the law, judgment and mercy, he would have them entirely overlook. I ought to thank the Senator for introducing holy writ into this debate, and inform him his arguments are not the sentiments of Him, who, when on earth, went about doing good.

The Senator further entreats the clergy to desist from their efforts in behalf of abolitionism. Who authorized the Senator, as a politician, to use his influence to point out to the clergy what they should preach, or for what they should pray ? Would the Senator dare exert his power here to bind the consciences of men ? By what rule of ethics, then, does he undertake to use his influence, from this high place of power, in order to gain the same object, I am at a loss to determine. Sir, this movement of the Senator is far more censurable and dangerous, as an attempt to unite Church and State, than were the petitions against Sunday mails, the report in opposition to which gained for you, Mr. President, so much applause in the country. I, sir, also appeal to the clergy to maintain their rights of conscience ; and if they believe

slavery to be a sin, we ought to honor and respect them for their open denunciation of it, rather than call on them to desist, for between their conscience and their God, we have no power to interfere ; we do not wish to make them political agents for any purpose.

But the Senator is not content to entreat the clergy alone to desist ; he calls on his countrywomen to warn them, also, to cease their efforts, and reminds them that the ink shed from the pen held in their fair fingers when writing their names to abolition petitions, may be the cause of shedding much human blood ! Sir, the language towards this class of petitioners is very much changed of late ; they formerly were pronounced idlers, fanatics, old women and school misses, unworthy of respect from intelligent and respectable men. I warned gentlemen then that they would change their language ; the blows they aimed fell harmless at the feet of those against whom they were intended to injure. In this movement of my countrywomen I thought was plainly to be discovered the operations of Providence, and a sure sign of the final triumph of *universal emancipation*. All history, both sacred and profane, both ancient and modern, bears testimony to the efficacy of female influence and power in the cause of human liberty. From the time of the preservation, by the hands of women, of the great Jewish law-giver, in his infantile hours, and who was preserved for the purpose of freeing his countrymen from Egyptian bondage, has woman been made a powerful agent in breaking to pieces the rod of the oppressor. With a pure and uncontaminated mind, her actions spring from the deepest recesses of the human heart. Denounce her as you will, you cannot deter her from her duty. Pain, sickness, want, poverty and even death itself form no obstacles in her onward march. Even the tender Virgin would dress, as a martyr for the stake, as for her bridal hour, rather than make sacrifice of her purity and duty. The eloquence of the Senate, and clash of arms, are alike powerful when brought in opposition to the influence of pure and virtuous woman. The liberty of the slave seems now to be committed to her charge, and who can doubt her final triumph ? I do not.—You cannot fight against her and hope for success ; and well does the Senator know this ; hence this appeal to her feelings to terrify her from that which she believes to be her duty. It is a vain attempt.

The Senator says that it was the principles of the Constitution which carried us through the Revolution. Surely it was ; and to use the language of another Senator from a slave State, on a former occasion, these are the very principles on which the abolitionists plant themselves. It was the principle that all men are born FREE AND EQUAL, that nerved the arm of our fathers in their contest for independence. It

was for the natural and inherent rights of *man* they contended. It is a libel upon the Constitution to say that its object was not liberty, but slavery, for millions of the human race.

The Senator, well fearing that all his eloquence and his arguments thus far are but chaff, when weighed in the balance against truth and justice, seems to find consolation in the idea, and says that which opposes the ulterior object of abolitionists, is that the general government has no power to act on the subject of slavery, and that the Constitution or the Union would not last an hour if the power claimed was exercised by Congress. It is slavery, then, and not liberty, that makes us one people. To dissolve slavery, is to dissolve the Union. Why require of us to support the Constitution by oath, if the Constitution itself is subject to the power of slavery, and not the moral power of the country? Change the form of the oath which you administer to Senators on taking seats here, swear them to support slavery, and according to the logic of the gentleman, the Constitution and the Union will both be safe. We hear almost daily threats of dissolving the Union, and from whence do they come? From citizens of the free States? No! From the slave States only. Why wish to dissolve it? The reason is plain, that a new government may be formed, by which we, as a nation, may be made a slaveholding people. No impartial observer of passing events, can, in my humble judgment, doubt the truth of this. The Senator thinks the abolitionists in error, if they wish the slaveholder to free his slave. He asks, why denounce him? I cannot admit the truth of the question; but I might well ask the gentleman, and the slaveholders generally, "why are you angry at me, because I tell you the truth?" It is the light of truth which the slaveholder cannot endure; a plain unvarnished tale of what slavery is, he considers a libel upon himself. The fact is, the slaveholder feels the leprosy of slavery upon him. He is anxious to hide the odious disease from the public eye, and the ballot box and the right of petition, when used against him, he feels as sharp reproof; and being unwilling to renounce his errors, he tries to escape from their consequences, by making the world believe that HE is the persecuted, and not the persecutor. Slaveholders have said here, during this very session, "the fact is, slavery will not bear examination." It is the Senator who denounces abolitionists for the exercise of their most unquestionable rights, while abolitionists condemn that only which the Senator himself will acknowledge to be wrong at all times and under all circumstances. Because he admits that if it was an original question whether slaves should be introduced among us, but few citizens would be found to agree to it, and none more opposed to it than himself. The argument is, that the evil of

slavery is incurable ; that the attempt to eradicate it would commence a struggle which would exterminate one race or the other. What a lamentable picture of our government, so often pronounced the best upon earth ! The seeds of disease, which were interwoven into its first existence, have now become so incorporated into its frame, that they cannot be extracted without dissolving the whole fabric ; that we must endure the evil without hope and without complaint. Our very natures must be changed before we can be brought tamely to submit to this doctrine. The evil will be remedied : and to use the language of Jefferson again, " this people will yet be free." The Senator finds consolation, however in the midst of this existing evil, in color and caste. The black race (says he) is the strong ground of slavery in our country. Yes, it is color, not right and justice, that is to continue forever slavery in our country. It is prejudice against color, which is the strong ground of the slaveholder's hope. Is that prejudice founded in nature, or is it the effect of base and sordid interest ? Let the mixed race which we see here, from black to almost perfect white, springing from white fathers, answer the question. Slavery has no just foundation in color : it rests exclusively upon usurpation, tyranny, oppressive fraud, and force. These were its parents in every age and country of the world.

The Senator says, the next or greatest difficulty to emancipation is, the amount of property it would take from the owners. All ideas of right and wrong are confounded in these words : emancipate property, emancipate a horse, or an ox, would not only be an unmeaning, but a ludicrous expression. To emancipate is to set free from slavery. To emancipate, is to set free a man, not property. The Senator estimates the number of slaves—*men* now held in bondage—at three millions in the United States. Is this statement made here by the same voice which was heard in this Capitol in favor of the liberties of Greece, and for the emancipation of our South American brethren from political thralldom ? It is ; and has all its fervor in favor of liberty been exhausted upon foreign countries, so as not to leave a single whisper in favor of three millions of men in our own country, now groaning under the most galling oppression the world ever saw ? No, sir. Sordid interest rules the hour. Men are made property, and paper is made money, and the Senator, no doubt, sees in these two peculiar institutions a power which, if united, will be able to accomplish all his wishes. He informs us that some have computed the slaves to be worth the average amount of five hundred dollars each. He will estimate within bounds at four hundred dollars each. Making the amount twelve hundred millions of dollars' worth of slave property. I heard this statement, Mr. President, with emotions of the deepest

feeling. By what rule of political or commercial arithmetic does the Senator calculate the amount of property in human beings? Can it be fancy or fact, that I hear such calculation, that the people of the United States own twelve hundred millions' (double the amount of all the specie in the world) worth of property in human flesh! And this property is owned, the gentleman informs us, by all classes of society, forming part of all our contracts within our own country and in Europe. I should have been glad, sir, to have been spared the hearing of a declaration of this kind, especially from the high source and the place from which it emanated. But the assertion has gone forth that we have twelve hundred millions of slave property at the South; and can any man so close his understanding here as not plainly to perceive that the power of this vast amount of property at the South is now uniting itself to the banking power of the North, in order to govern the destinies of this country. Six hundred millions of banking capital is to be brought into this coalition, and the slave power and the bank power are thus to unite in order to break down the present administration. There can be no mistake, as I believe, in this matter. The aristocracy of the North, who, by the power of a corrupt banking system, and the aristocracy of the South, by the power of the slave system, both fattening upon the labor of others, are now about to unite in order to make the reign of each perpetual. Is there an independent American to be found, who will become the recreant slave to such an unholy combination? Is this another compromise to barter the liberties of the country for personal aggrandisement? "Resistance to tyrants is obedience to God."

The Senator further insists, "that what the law makes property is property." This is the predicate of the gentleman; he has neither facts nor reason to prove it; yet upon this alone does he rest the whole case that negroes are property. I deny the predicate and the argument. Suppose the Legislature of the Senator's own State should pass a law declaring his wife, his children, his friends, indeed, any white citizen of Kentucky, *property*, and should they be sold and transferred as such, would the gentleman fold his arms and say, "Yes, they are property, for the law has made them such?" No, sir; he would denounce such law with more vehemence than he now denounces abolitionists, and would deny the authority of human legislation to accomplish an object so clearly beyond its power.

Human laws, I contend, cannot make human beings property, if human force can do it. If it is competent for our legislatures to make a black man *property*, it is competent for them to make a white man

the same ; and the same objection exists to the power of the people in an organic law for their own government ; they cannot make property of each other ; and, in the language of the Constitution of Indiana, such an act "can only originate in usurpation and tyranny." Dreadful, indeed, would be the condition of this country, if these principles should not only be carried into the ballot box, but into the presidential chair. The idea that abolitionists ought to pay for the slaves if they are set free, and that they ought to think of this, is addressed to their fears, and not to their judgment. There is no principle of morality or justice that should require them or our citizens generally to do so. To free a slave is to take from usurpation that which it has made property and given to another, and bestow it upon the rightful owner. It is not taking property from its true owner for public use. Men can do with their own as they please, to vary their peace if they wish, but cannot be compelled to do so.

The gentleman repeats the assertion that has been repeated a thousand and one times : that abolitionists are retarding the emancipation of the slave, and have thrown it back fifty or a hundred years ; that they have increased the rigors of slavery, and caused the master to treat his slave with more severity. Slavery, then, is to cease at some period ; and because the abolitionists have said to the slaveholder, "Now is the accepted time," and because he thinks this an improper interference, and not having the abolitionists in his power, he inflicts his vengeance on his unoffending slave ! The moral of this story is, the slaveholder will exercise more cruelty because he is desired to show mercy. I do not envy the senator the full benefit of his argument. It is no doubt a true picture of the feelings and principles which slavery engenders in the breast of the master. It is in perfect keeping with the threat we almost daily hear ; that if petitioners do not cease their efforts in the exercise of their constitutional rights, others will dissolve the Union. These, however, ought to be esteemed idle assertions and idle threats.

The Senator tells us that the consequences arising from the freedom of slaves, would be to reduce the wages of the white laborer. He has furnished us with neither data nor fact upon which this opinion can rest. He, however, would draw a line, on one side of which he would place the slave labor, and on the other side free white labor ; and looking over the whole, as a general system, both would appear on a perfect equality. I have observed, for some years past, that the southern slaveholder has insisted that his laborers are, in point of integrity, morality, usefulness, and comfort, equal to the laboring population of the North. Thus endeavoring to raise the slave in public estimation, to



an equality with the free white laborer of the North; while, on the other hand, the northern aristocrat has, in the same manner, viz.: by comparison, endeavored to reduce his laborers to the moral and political condition of the slaves of the South. It is for the free white American citizens to determine whether they will permit such degrading comparisons longer to exist. Already has this spirit broken forth in denunciation of the right of universal suffrage. Will free white laboring citizens take warning before it is too late?

The last, the great, the crying sin of abolitionists, in the eyes of the Senator, is that they are opposed to colonization, and in favor of amalgamation. It is not necessary now to enter into any of the benefits and advantages of colonization; the Senator has pronounced it the noblest scheme ever devised by man; he says it is powerful but harmless. I have no knowledge of any resulting benefits from the scheme to either race. I have not a doubt as to the real object intended by its founders; it did not arise from principles of humanity and benevolence towards the colored race, but a desire to remove the free of that race beyond the United States, in order to perpetuate and make slavery more secure.

The Senator further makes the broad charge, that abolitionists wish to enforce the unnatural system of amalgamation. We deny the fact, and call on the Senator for proof. The citizens of the free States, the petitioners against slavery, the abolitionists of the free States in favor of amalgamation! No, sir! If you want evidence of the fact, and reasoning in support of amalgamation, you must look into the slave States; it is there it spreads and flourishes from slave mothers, and presents all possible colors and complexions, from the jet black African to the scarcely to be distinguished white person. Does any one need proof of this fact? let him take but a few turns through the streets of your capital, and observe those whom he shall meet, and he will be perfectly satisfied. Amalgamation, indeed! The charge is made with a very bad grace on the present occasion. No, sir; it is not the negro woman, it is the slave and the contaminating influence of slavery that is the mother of amalgamation. Does the gentleman want facts on this subject? let him look at the colored race in the free States; it is a rare occurrence there. A colony of blacks, some three or four hundred, were settled, some fifteen or twenty years since, in the county of Brown, a few miles distant from my former residence in Ohio, and I was told by a person living near them, a country merchant with whom they dealt, when conversing with him on this very subject, he informed me he knew of but one instance of a mulatto child being born amongst them for the last fifteen years; and I venture the assertion,

had this same colony been settled in a slave State, the cases of a like kind would have been far more numerous. I repeat again, in the words of Dr. Channing, it is a slave country that reeks with licentiousness of this kind, and for proof I refer to the opinions of Judge Harper, of North Carolina, in his defence of southern slavery.

The Senator, as if fearing that he had made his charge too broad, and might fail in proof to sustain it, seems to stop short, and make the inquiry, where is the process of amalgamation to begin? He had heard of no instance of the kind against abolitionists; they (the abolitionists) would begin it with the laboring class; and if I understand the Senator correctly, that abolitionism, by throwing together the white and the black laborers, would naturally produce this result. Sir, I regret, I deplore, that such a charge should be made against the laboring class—that class which tills the ground; and, in obedience to the decree of their Maker, eat their bread in the sweat of their face—that class, as Mr. Jefferson says, if God has a chosen people on earth, they are those who thus labor. This charge is calculated for effect, to induce the laboring class to believe, that if emancipation takes place, they will be, in the free States, reduced to the same condition as the colored laborer. The reverse of that is the truth of the case. It is the slaveholder now, he who looks upon labor as only fit for a servile race, it is him and his kindred spirits who live upon the labor of others, endeavoring to reduce the white laborer to the condition of the slave. They do not yet claim him as property, but they would exclude him from all participation in the public affairs of the country. It is further said, that if the negroes were free, the black would rival the white laborer in the free States. I cannot believe it, while so many facts exist to prove the contrary. Negroes, like the white race, but with stronger feelings, are attached to the place of their birth, and the home of their youth; and the climate of the South is congenial to their natures, more than that of the North. If emancipation should take place at the South, and the negro be freed from the fear of being made merchandize, they would remove from the free States of the North and West, immediately return to that country, because it is the home of their friends and fathers. Already in Ohio, as far as my knowledge extends, has free white labor, (emigrants,) from foreign countries, engrossed almost entirely all situations in which male or female labor is found. But, sir, this plea of necessity and convenience is the plea of tyrants. Has not the free black person the same right to the use of his hands as the white person: the same right to contract and labor for what price he pleases? Would the gentleman extend the power of the government to the regulation of the productive industry of the country? This was



his former theory, but put down effectually by the public voice. Taking advantage of the prejudice against labor, the attempt is now being made to begin this same system, by first operating on the poor black laborer. For shame ! let us cease from attempts of this kind.

The Senator informs us that the question was asked fifty years ago that is now asked, Can the negro be continued forever in bondage ? Yes ; and it will continue to be asked, in still louder and louder tones. But, says the Senator, we are yet a prosperous and happy nation. Pray, sir, in what part of your country do you find this prosperity and happiness ? In the slave States ? No ! no ! There all is weakness, gloom, and despair ; while, in the free States, all is light, business, and activity. What has created the astonishing difference between the gentleman's State and mine—between Kentucky and Ohio ? Slavery, the withering curse of slavery, is upon Kentucky, while Ohio is free. Kentucky, the garden of the West, almost the land of promise, possessing all the natural advantages, and more than is possessed by Ohio, is vastly behind in population and wealth. Sir, I can see from the windows of my upper chamber, in the city of Cincinnati, lands in Kentucky, which, I am told, can be purchased from ten to fifty dollars per acre ; while lands of the same quality, under the same improvements, and the same distance from me in Ohio, would probably sell from one to five hundred dollars per acre. I was told by a friend, a few days before I left home, who had formerly resided in the county of Bourbon, Kentucky—a most excellent county of lands adjoining, I believe, the county in which the Senator resides—that the white population of that county was more than four hundred less than it was five years since. Will the Senator contend, after a knowledge of these facts, that slavery in this country has been the cause of our prosperity and happiness ? No, he cannot. It is because slavery has been excluded and driven from a large proportion of our country, that we are a prosperous and happy people. But its late attempts to force its influence and power into the free States, and deprive our citizens of their unquestionable rights, has been the moving cause of all the riots, burnings, and murders that have taken place on account of abolitionism ; and it has, in some degree, even in the free States, caused mourning, lamentation, and woe. Remove slavery, and the country, the whole country, will recover its natural vigor, and our peace and future prosperity will be placed on a more extensive, safe, and sure foundation. It is a waste of time to answer the allegations that the emancipation of the negro race would induce them to make war on the white race. Every fact in the history of emancipation proves the reverse ; and he that will not believe those facts, has darkened his own understanding, that the light

of reason can make no impression : he appeals to interest, not to truth, for information on this subject. We do not fear his errors, while we are left free to combat them. The Senator implores us to cease all commotion on this subject. Are we to surrender all our rights and privileges, all the official stations of the country, into the hands of the slaveholding power, without a single struggle ? Are we to cease all exertions for our own safety, and submit in quiet to the rule of this power ? Is the calm of despotism to reign over this land, and the voice of freemen to be no more heard ! This sacrifice is required of us, in order to sustain slavery. *Freemen*, will you make it ? Will you shut your ears and your sympathies, and withhold from the poor, famished slave, a morsel of bread ? Can you thus act, and expect the blessings of heaven upon your country ? I beseech you to consider for yourselves.

Mr. President, I have been compelled to enter into this discussion from the course pursued by the Senate on the resolutions I submitted a few days since. The cry of abolitionist has been raised against me. If those resolutions are abolitionism, then I am an abolitionist from the sole of my feet to the crown of my head. If to maintain the rights of the States, the security of the citizen from violence and outrage ; if to preserve the supremacy of the laws ; if insisting on the right of petition, a medium through which *every person* subject to the laws has an undoubted right to approach the constitutional authorities of the country, be the doctrines of abolitionists, it finds a response in every beating pulse in my veins. Neither power, nor favor, nor want, nor misery, shall deter me from its support while the vital current continues to flow.

Condemned at home for my opposition to slavery, alone and single-handed here, well may I feel tremor and emotion in bearding this lion of slavery in his very *den* and upon his own ground. I should shrink, sir, at once, from this fearful and unequal contest, was I not thoroughly convinced that I am sustained by the power of truth and the best interests of the country.

I listened to the Senator of Kentucky with undivided attention. I was disappointed, sadly disappointed. I had heard of the Senator's tact in making compromises and agreements on this floor, and though opposed in principle to all such proceedings, yet I hoped to hear something upon which we could hang a hope that peace would be restored to the borders of our own States, and all future aggression upon our citizens from the free States be prevented. Now, sir, he offers us nothing but unconditional submission to political death ; and not political alone, but absolute *death*. We have counted the cost in this matter, and are

determined to live or die free. Let the slaveholder hug his system to his bosom in his own State, we will not go there to disturb him; but, sir, within our own borders we claim to enjoy the same privileges. Even, sir, here in this District, this ten miles square of common property and common right, the slave power has the assurance to come into this very Hall, and request that we—yes, Mr. President, that my constituents—be denied the right of petition on the subject of slavery in this District. This most extraordinary petition against the right of others to petition on the same subject of theirs, is graciously received and ordered to be printed; pæans sung to it by the slave power, while the petitions I offer, from as honorable, free, high-minded and patriotic American citizens as any in this District, are spit upon, and turned out of doors as an *unclean thing*! Genius of liberty! how long will you sleep under this iron power of oppression? Not content with ruling over their own slaves, they claim the power to instruct Congress on the question of receiving petitions; and yet we are tauntingly and sneeringly told that we have nothing to do with the existence of slavery in the country, a suggestion as absurd as it is ridiculous. We are called upon to make laws in favor of slavery in the District, but it is denied that we can make laws against it; and at last the right of petition on the subject, by the people of the free States, is complained of as an improper interference. I leave it to the Senator to reconcile all these difficulties, absurdities, claims and requests of the people of this District, to the country at large; and I venture the opinion that he will find as much difficulty in producing the belief that he is correct now, that he has found in obtaining the same belief that he was before correct in his views and political course on the subject of banks, internal improvements, protective tariffs, &c., and the regulation, by acts of Congress, of the productive industry of the country, together with all the compromises and coalitions he has entered into for the attainment of those objects. I rejoice, however, that the Senator has made the display he has on this occasion. It is a powerful shake to awaken the sleeping energies of liberty, and his voice, like a trumpet, will call from their slumbers millions of freemen to defend their rights; and the overthrow of his theory now, is as sure and certain, by the force of public opinion, as was the overthrow of all his former schemes, by the same mighty power.

I feel, Mr. President, as if I had wearied your patience, while I am sure my own bodily powers admonish me to close; but I cannot do so without again reminding my constituents of the greetings that have taken place on the consummation and ratification of the treaty, offensive and defensive, between the slaveholding and bank powers, in order

to carry on a war against the liberties of our country, and to put down the present administration. Yes, there is no voice heard from New England now. Boston and Faneuil Hall are silent as death. The free day-laborer is, in prospect, reduced to the political, if not moral condition of the slave; an ideal line is to divide them in their labor; yes, the same principle is to govern on both sides. Even the farmer, too, will soon be brought into the same fold. It will be again said, with regard to the government of the country, "The farmer with his huge paws upon the statute book, what can he do?" I have endeavored to warn my fellow-citizens of the present and approaching danger, but the dark cloud of slavery is before their eyes, and prevents many of them from seeing the condition of things as they are. That cloud, like the cloud of summer, will soon pass away, and its thunders cease to be heard. Slavery will come to an end, and the sunshine of prosperity warm, invigorate and bless our whole country.

I do not know, Mr. President, that my voice will ever again be heard on this floor. I now willingly, yes, gladly, return to my constituents, to the people of my own State. I have spent my life amongst them, and the greater portion of it in their service, and they have bestowed upon me their confidence in numerous instances. I feel perfectly conscious that, in the discharge of every trust which they have committed to me, I have, to the best of my abilities, acted solely with a view to the general good, not suffering myself to be influenced by any particular or private interest whatever; and I now challenge those who think I have done otherwise, to lay their finger upon any public act of mine, and prove to the country its injustice or anti-republican tendency. That I have often erred in the selection of means to accomplish important ends I have no doubt, but my belief in the truth of the doctrines of the Declaration of Independence, the political creed of President Jefferson, remains unshaken and unsubdued. My greatest regret is that I have not been more zealous, and done more for the cause of individual and political liberty than I have done. I hope, on returning to my home and my friends, to join them again in rekindling the beacon-fires of liberty upon every hill in our State, until their broad glare shall enlighten every valley, and the song of triumph will soon be heard, for the hearts of our people are in the hands of a just and holy being, (who can not look upon oppression but with abhorrence,) and he can turn them whithersoever he will, as the rivers of water are turned. Though our national sins are many and grievous, yet repentance, like that of ancient Nineveh, may divert from us that impending danger which seems to hang over our heads as by a single hair. That all may be safe, I conclude that **THE NEGRO WILL YET BE SET FREE.**



## TO THE PEOPLE OF THE UNITED STATES.

THE message from the President of the United States, communicating to the House of Representatives the action of the Government in relation to the captured Africans, was sent in consequence of a resolution of the Hon. John Quincy Adams. How large an edition was printed we do not know, but a letter from a Member of Congress says,—“I sent to a friend my own copy before I had read it, and on going to the Document-Room immediately afterwards, I found I could not supply its place, and I have had to *borrow the reading of it.*” Whether the document was found to be so interesting that Members of Congress caught them up with unusual avidity to send to their constituents, or a large portion of them were destroyed as an incendiary production, we are unadvised. But so great has been the inquiry for the pamphlet *in the free States*, and so extraordinary is its character, that it has been deemed best to re-publish it for the use of Members of Congress and their constituents, omitting only some of the ship papers, and the originals of letters of which the translations were published in the original document, with explanatory and critical notes, &c. Otherwise, it is an exact copy of the document printed by order of the House of Representatives.

The attention of the free people of this country is invited to the contents of this public document, and they will not fail to notice with astonishment the attempt of the executive to interfere with the regular administration of justice. The Government of a free people should protect defenceless strangers thrown, by the providence of God, after a successful struggle for liberty, upon their shores, and not give them up to foreign claimants unless imperiously required to do it by treaty. But in this instance, it will appear that instead of interposing the national *Ægis* to shield the weak and oppressed, our government has lent all the aid and facilities at its command to have them placed in the hands of the Spaniards, with certain knowledge that many of them would be put to death! These Africans are detained in jail, under process of the United States Courts, in a free State, after it has been decided by the District Judge, on sufficient proof, that they are recently from Africa—were never the lawful slaves of Ruiz and Montes—that the libels of these Spanish claimants should be dismissed with costs—and when it is clear as noon-day that there is no law or treaty stipulation that requires the further detention of these Africans or their delivery to Spain or its subjects. And this, on the demand of the Spanish minister, who has been allowed to come into an American Court, and appeal, when the parties themselves—his countrymen—have made no appeal from the righteous decision of the District Court!

And this is not all. The Circuit Court have refused to admit the children—three little girls and a boy—to bail, after ample security was offered, and *they*, as well as the rest, are to be confined, it seems, *nine months longer* in jail to await the decision of the Supreme Court of the United States. We ask the attention of the law-loving and liberty-loving people of the United States to these things.



AFRICANS TAKEN IN 'THE AMISTAD.

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*The information required by the resolution of the House of Representatives of the 23d ultimo, in relation to the Africans taken in the vessel called the Amistad, &c.*

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APRIL 15, 1840.

Read, and laid upon the table.

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*To the House of Representatives :*

I communicate to the House of Representatives a report from the Secretary of State, with documents containing the information called for by their resolution of the 23d instant.

M. VAN BUREN.

WASHINGTON, *March 31, 1840.*

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DEPARTMENT OF STATE,

*Washington, March 31, 1840.*

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 23d instant, requesting the President to communicate to that House, "if not incompatible with the public interest, copies of any demand made by the minister or other diplomatic representative of Spain in this country, of the surrender to him of the Africans taken in, or belonging to, the vessel called the *Amistad* ; and of all correspondence between this Government and the said minister or diplomatic representative, and with any other foreign Government or minister thereof, relating thereto ; also, copies of all instructions from the Department of State to the district attorney of the United States in the judicial district of Connecticut, and all reports of the said district attorney to the said department relating to that subject ;" has the honor to lay before the President copies of all the correspondence and papers on the records and files of this department relative thereto, except a recent correspondence with the Spanish minister in regard to testimony prepared to be furnished in the future investigation of the cause of the *Amistad* before the tribunals of the United States.

JOHN FORSYTH.

To the PRESIDENT.

*Mr. Calderon to Mr. Forsyth.*

[TRANSLATION.]

NEW YORK, September 6, 1839.

The undersigned, envoy extraordinary and minister plenipotentiary of Her Catholic Majesty the Queen of Spain, has the honor of calling the attention of the honorable John Forsyth, Secretary of State of the United States, to a recent and very public occurrence of which, no doubt, Mr. Forsyth is already informed, and in consequence of which it is the imperative duty of the undersigned to claim an observance of the law of nations, and of the treaties existing between the United States and Spain. The occurrence alluded to is the capture of the Spanish schooner "*Amistad*."

This vessel sailed from Havana on the 28th of June, bound to Guanaja, in the vicinity of Porto Principe, under the command of her owner, Don Ramon Ferrer, laden with sundry merchandise, and with fifty-three negro slaves on board; and, previous to her departure, she obtained her clearance (*alijo*) from the custom-house, the necessary permit from the authorities for the transportation of the negroes, a passport, and all the other documents required by the laws of Spain for navigating a vessel and for proving ownership of property: a circumstance particularly important in the opinion of the undersigned.

During the night of the 30th of said month, or about daybreak on the following day, the slaves rose upon the crew, and killed the captain, a slave of his, and two sailors—sparing only two persons, after ill-treating and wounding them, namely, Don Jose Ruiz and Don Pedro Montes; of whom the former was owner of forty-nine of the slaves, and the latter of the other four. These they retained, that they might navigate the vessel and take her to the coast of Africa. Montes, availing himself of his knowledge of nautical affairs, and under favor of Divine Providence, succeeded in directing the vessel to these shores. He was spoken by various vessels, from the captains of which the negroes bought provisions, but to whom, it seems, he was unable to make known his distress, being closely watched. At length, by good fortune, he reached Long Island sound, where the "*Amistad*" was detained by the American brig-of-war "*Washington*," Captain Gedney, who, on learning the circumstances of the case, secured the negroes, and took them, with the vessel, to New London, in the State of Connecticut.

The conduct of that commander and his subalterns towards the unfortunate Spaniards has been that which was to be expected from gentlemen, and from officers in the service of an enlightened nation friendly to Spain. That conduct will be appreciated as it deserves by my august sovereign, and by the Spanish Government, and will be reciprocated on similar occasions by the Spaniards—a people ever grateful for benefits received.

The act of humanity thus performed would have been complete, had the vessel at the same time been set at liberty, and the negroes sent to be tried by the proper tribunal, and by the violated laws of the country of which they are subjects. The undersigned is willing to believe that such would have been the case, had the General Government been able to interpose its authority in the first instance, as it has probably done during the short interval between the occurrence of this affair and the period when the undersigned received an authentic statement of the facts.

In the mean time, however, the schooner "*Amistad*" has been deliver-

ed up to the United States marshal in New Haven, who, in conjunction with the district judge, A. T. Judson, has instituted proceedings in the case, and adopted resolutions founded on the declarations first received; and, according to information from Her Majesty's consul for Boston, who repaired to the scene of this occurrence, the officers of the "Washington," in the service of the United States, have presented to that incompetent tribunal a petition, which has been admitted, claiming salvage: a claim which, in view of the existing treaties, the undersigned conceives cannot be allowed in the sense in which it is made.

Having related the principal facts, the undersigned will not trouble Mr. Forsyth with the details, as well because he presumes that he is fully acquainted with them, as because they would add little or no weight to the justice with which the undersigned, in discharge of his duty, is induced to ask—

1st. That the vessel be immediately delivered up to her owner, together with every article found on board at the time of her capture by the Washington, without any payment being exacted on the score of salvage, nor any charges made, other than those specified in the treaty of 1795, article 1st.

2d. That it be declared that no tribunal in the United States has the right to institute proceedings against, or to impose penalties upon, the subjects of Spain, for crimes committed on board a Spanish vessel, and in the waters of the Spanish territory.

3d. That the negroes be conveyed to Havana, or be placed at the disposal of the proper authorities in that part of Her Majesty's dominions, in order to their being tried by the Spanish laws which they have violated; and that, in the mean time, they be kept in safe custody, in order to prevent their evasion.

4th. That if, in consequence of the intervention of the authorities of Connecticut, there should be any delay in the desired delivery of the vessel and the slaves, the owners both of the latter and of the former be indemnified for the injury that may accrue to them.

In support of these claims, the undersigned invokes the law of nations, the stipulations of existing treaties, and those good feelings so necessary to the maintenance of the friendly relations that subsist between the two countries, and are so interesting to both.

The undersigned would be apprehensive of offending Mr. Forsyth by supposing it in the least degree necessary to bring to his recollection his own well-known construction (*disposiciones*) of the law of nations in a case analogous to the one under consideration; and he deems it equally unnecessary to enumerate the several cases in which, in obedience to that law, not only American citizens who have committed some crime on the high sea have been sent by other Governments to the United States in order to their being tried according to the laws of said States, but even foreigners who have offended against the laws on board of American vessels.

In respect to the stipulations subsisting between this republic and Spain, the undersigned conceives that, in support of his pretensions, he cannot do better than to cite the 8th, 9th, and 10th articles of the treaty of 1795, which articles continued in full force by the declaration *ad hoc* contained in the 12th article of the treaty of 1819, namely:

—“ART. 8. In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, *pursuit of pirates or enemies or any*

*other urgent necessity*, for seeking of shelter and harbor, to retreat and enter into any of the rivers, bays, roads, or ports, belonging to the other party, they shall be received and treated with all humanity, and enjoy all favor, protection and help; and they shall be permitted to refresh and provide themselves, *at reasonable rates*, with victuals and all things needful for the subsistence of their persons, or reparation of their ships, and prosecution of their voyage; *and they shall no ways be hindered from re. turning out of the said ports or roads*, but may remove and depart when and whither they please, without any let or hindrance.

"ART. 9. All ships and *merchandise, of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas*, shall be brought into some port of either State, and shall be delivered to the custody of the officers of that port, in order *to be taken care of, and restored entire* to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

"ART. 10. When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts or within the dominion of the other, their respective subjects or citizens shall receive, as well for themselves as for their vessels and effects, *the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case*; and if the operations of repair should require that the whole or any part of the cargo be unladen, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away."

The crime in question is one of those which, if permitted to pass unpunished, would endanger the internal tranquillity and the safety of the island of Cuba, where the citizens of the United States not only carry on a considerable trade, but where they possess territorial properties which they cultivate with the labor of African slaves. These, on learning that the crime alluded to had been committed with impunity, (and their friends would not fail to acquaint them with the fact,) would lose none of the opportunities for attempting revolt and evasion, which are afforded by the frequent and daily necessity of conveying negroes by sea from one quarter of the island to another; and to guard against this it would be necessary to use additional precautions at a great expense. If, on the other hand, they should be condemned by the incompetent tribunal that has taken upon itself to try them as pirates and assassins, the infliction of capital punishment in this case would not be attended with the salutary effects had in view by the law when it resorts to this painful and terrible alternative, namely, to prevent the commission of similar offences. In such case, the indemnification I officially ask for the owners would be a very slender compensation; for, if the property remained unimpaired, as it would remain, the satisfaction due to the public would not be accorded. The dread of a repetition of these acts might be expected to take possession of the minds of the people residing in the islands of Cuba and Porto-Rico; and, in lieu of the harmony and good feeling subsisting between them and the citizens of the United States, it would not be surprising, nor would it afford a cause for complaint, if sentiments were awakened of a different nature, and highly prejudicial to the interests of both parties. How can the man who promotes or advocates discord in families expect to be regarded with benevolence? or how can he who acts in such a manner pretend to the title of friend?

The undersigned does not apprehend that the fears herein expressed

by him will be deemed exaggerated or unfounded. No one is ignorant of the existence of a considerable number of persons who, prompted by a zeal which it does not belong to him to qualify, are employing all the means which knowledge and wealth can afford for effecting, at any price, the emancipation of the slaves. Many of them, either because they are persuaded of the philanthropy of their designs, or assuming this virtue as a cloak, have no hesitation in repaying the hospitality they receive by the seduction of the slaves of their host, especially if they are skilful in any trade. Having induced them to abandon their masters, they ship them on board some vessel, where they retain them in a worse state of captivity than before, or send them to the United States to be set at liberty: thus appropriating to themselves the property of another, and deliberately committing a theft, while, perhaps, they believe that they are performing a meritorious act. In the mean time, the only resource of the ruined Spanish proprietor is to apply, at an enormous expense, to the tribunals of a foreign country, where in many places, public opinion throws in the way of the applicant for justice, in matters of this nature, insuperable obstacles. Of the many cases that might be referred to, in proof of the justice of this remark, one is that of John Smith, mate of the brig *Swiftsure*, who concealed and brought away with him a negro who was cook in a hotel where he was staying; upon which subject the undersigned wrote to the Secretary of State on the 19th of November, 1836, and now addresses him again in a separate communication. That the fears of the undersigned are not without foundation, is also evident from the excitement which this occurrence has produced in the public mind, from the language used by some of the public papers in relating it, and from the exertions that many persons have commenced making in favor of the revolted slaves of the "*Amistad*," for whose defence they have engaged some of the most able counsellors of Boston, New Haven, and New York.

In the islands above mentioned, the citizens of the United States have always met with a favorable reception and kind treatment. The Spanish Government, for the protection of their property, would immediately accord the extradition of any slaves that might take refuge there from the southern States. Being itself exact in the observance of treaties, it claims the more justly the execution of them, and a reciprocal good correspondence, from a nation, the ally and neighbor of Spain, to whom so many proofs have been afforded of the high degree in which her friendship is esteemed.

The undersigned requests Mr. Forsyth, the Secretary of State of the United States, to submit this note to the consideration of the President; and takes this opportunity of renewing to him the assurances of his distinguished consideration.

A. CALDERON DE LA BARCA.

Hon. J. FORSYTH,  
*Secretary of State.*

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*Mr. Forsyth to Mr. Calderon.*

DEPARTMENT OF STATE,  
*Washington, September 16, 1839.*

SIR: I have the honor to acknowledge the receipt, at this department, of your note of the 6th instant, regarding the case of the Spanish schooner



"Amistad" and cargo, together with the negroes found on board that vessel. Your letter was immediately forwarded to the President of the United States for his consideration, and no time will be needlessly lost, after his decision upon the demand it prefers shall have reached me, in communicating to you his views upon the subject.

Accept, sir, the renewed assurance of my high consideration.

JOHN FORSYTH.

DON ANGEL CALDERON DE LA BARCA, &c.

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*Mr. Calderon to Mr. Forsyth.*

[TRANSLATION.]

*New York, September 17, 1839.*

SIR: I have just had the honor to receive your letter of the 16th instant, acknowledging the receipt of my note of the 6th, relative to the Amistad, and I hasten to inform you of it; at the same time repeating the assurances of my high consideration.

A. CALDERON DE LA BARCA.

To the HON. J. FORSYTH,

*Secretary of State.*

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*Mr. Forsyth to Mr. Calderon.*

DEPARTMENT OF STATE,  
*Washington, September 23, 1839.*

SIR: In the examination of the case of the Spanish schooner "Amistad," the only evidence at present within reach of this department is that presented by the ship's papers, and the proceedings of the court of inquiry held by a district judge of Connecticut, on board the schooner, at the time the negroes in whose possession she was found were imprisoned for the alleged murder of the captain and mate of the vessel. If you have any other authentic documents relating to the question, or evidence of facts which can be useful to a proper understanding of it, I have the honor to request, by the direction of the President, that you will communicate them to me with as little delay as practicable.

I avail myself of the occasion to renew to you the assurance of my high consideration.

JOHN FORSYTH.

DON A. CALDERON DE LA BARCA, &c., &c., &c.,

*New York.*

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*Mr. Calderon to Mr. Forsyth.*

[TRANSLATION.]

*NEW YORK, September 29, 1839.*

SIR: At the very hour in which I was about to embark in the steamboat



Albany, for the purpose of placing my credentials in the hands of his excellency the President, and of presenting to him my successor Don Pedro de Alcantara Argaiz, I received your letter of the 23d instant, in which you ask me whether I possess any other authentic documents relative to the case of the schooner *Amistad*, besides those found on board the said vessel, and now deposited in the court of Connecticut, which takes cognizance of that affair.

In reply, I hasten to assure you, now that I have time for that purpose, although the official conduct of that case belongs to Señor Argaiz, that there are not in the possession of the legation of Her Majesty any documents besides the declaration on oath of Montes and Ruiz; inasmuch as the papers of the vessel, of the lawfulness of which there appears to be no reason for doubt, are in the court above mentioned; and there is as yet not time enough for the news of the occurrence to have reached Havana.

I entreat you, sir, to excuse my involuntary delay in replying to you, and I have the honor of repeating to you the assurances of my high consideration and personal esteem.

A. CALDERON DE LA BARCA.

Honorable JOHN FORSYTH,  
*Secretary of State.*

*Chevalier de Argaiz to Mr. Forsyth.*

[TRANSLATION.]

NEW YORK, October 3, 1839.

The undersigned, envoy extraordinary and minister plenipotentiary of Her Catholic Majesty, has the honor of commencing his official correspondence with you, sir, by soliciting an act of justice, which not being in any way connected with the principal question as yet remaining unsettled by the cabinet, relative to the negroes found on board the schooner *Amistad* on her arrival on these coasts, he does not doubt will be received by you in the manner which he has every reason to expect, from the circumstance that all preceding acts of the department under your charge have been dictated by the principles of rectitude and friendly reciprocity.

Her Majesty's vice-consul at Boston, under date of the 24th of September last, says, among other things:

"As it appears from the papers of the schooner that she, as well as her cargo, are exclusively Spanish property, it seems strange that the court of New London has not yet ordered the delivery of one or both to the owners, if they are present, or to me, as their agent, born in that part of the Union, agreeably to the articles of the treaty now in force between the two countries. The delay in the delivery would not be of so much consequence to the proprietors, if the vessel did not require immediate repairs, in order to preserve her from complete destruction, and if it were not material that a large portion of the cargo should be sold on account of its bad condition."

In submitting to you, sir, this solicitation, which has been addressed by the said vice consul to the Spanish legation, the undersigned doubts not that you will see the propriety of it, and will obtain directions from the President, to the effect that the injuries which the persons represented by the vice-consul might otherwise sustain, may be lessened by means of a speedy determination of the question.

The undersigned avails himself of this occasion to offer you, sir, the assurances of his most distinguished consideration.

THE CAVALLERO PEDRO ALCANTARA ARGAIZ.

Hon. JOHN FORSYTH,

*Secretary of State.*

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*Mr. Forsyth to the Chevalier de Argaiz.*

DEPARTMENT OF STATE,  
Washington, October 24, 1839.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note addressed to him on the 22d instant, by the Chevalier de Argaiz, envoy extraordinary and minister plenipotentiary of Her Catholic Majesty, protesting against the arrest, and imprisonment at New York, of two Spanish subjects, Jose Ruiz, and Pedro Montes, and asking the interposition of the Executive in procuring their liberation, and indemnity for the losses and injury they may have sustained.

It appears from the documents accompanying the note of the Chevalier de Argaiz, that the two Spanish subjects referred to were arrested on process issuing from the superior court of the city of New York, at the suit of, and upon affidavits made by, certain colored men, natives of Africa, for the purpose of securing their appearance before the proper tribunal, to answer for wrongs alleged to have been inflicted by them upon the persons of said Africans; and, consequently, that the occurrence constitutes a simple case of resort by individuals against others to the judicial courts of the country, which are equally open to all without distinction, and to which it belongs exclusively to decide, as well upon the rights of the complainant to demand the interposition of their authority, as upon the liability of the defendant to give redress for the wrong alleged to have been committed by him. This being the only light in which the subject can be viewed, and the constitution and laws having secured the judicial power against all interference on the part of the Executive authority, the President, to whom the Chevalier de Argaiz's note has been communicated, has instructed the undersigned to state, that the agency of this Government to obtain the release of Messrs. Ruiz and Montes cannot be afforded in the manner requested by him. The laws of the State of New York, of which the constitution and laws of the United States and their treaties with foreign Powers form a part, afford to Messrs. Ruiz and Montes all the necessary means to procure their release from imprisonment, and to obtain any indemnity to which they may be justly entitled, and therefore would render unnecessary any agency on the part of this department for those purposes; but, inasmuch as the imprisonment of those persons connects itself with another occurrence which has been brought under the President's consideration, in consequence of a correspondence between the Spanish legation and this department, instructions (of which a copy is enclosed) have been given to the attorney of the United States for the district of New York to put himself in communication with those gentlemen, to offer them his advice (and his aid, if necessary) as to any measure which it may be proper for them to adopt to procure their release, and such indemnity as may be due to them, under our laws, for their arrest and detention.

The documents enclosed in the Chevalier de Argaiz's note are, agreeably to his request, herewith returned; and the undersigned avails himself of this occasion to renew to the Chevalier de Argaiz the assurance of his high consideration.

JOHN FORSYTH.

The Chevalier de ARGAIZ, &c., &c., &c.

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*The Chevalier de Argaiz to Mr. Forsyth.*

[TRANSLATION.]

NEW YORK, November 5, 1839.

The undersigned, envoy extraordinary and minister plenipotentiary of Her Catholic Majesty, has the honor of acknowledging the reception of the note from the Secretary of State of the General Government of the Union, dated the 24th of October, in which that gentleman, in reply to one of the 22d of the same month, shows the reasons which induced the President to order information to be communicated to the undersigned that the Government could not act as the undersigned had requested, for the purpose of obtaining the liberty of the Spanish subjects Montes and Ruiz; but that, as the imprisonment of those persons was evidently connected with another occurrence, which had been submitted to the consideration of the President, in consequence of a correspondence between the Spanish legation and the Department of State, instructions (of which a copy was enclosed) had been given to the attorney of the United States for the district of New York, to the effect that he should offer to those persons his advice and assistance (if needed) with regard to the most proper means of obtaining their liberty.

Although this answer did not entirely satisfy the desire expressed by the undersigned in his note of October 22d, to which he was impelled by the sense of his duty and by the terms of existing treaties, yet he received it with pleasure and with thanks: with pleasure, because he saw that the Secretary of State did not refuse to admit the reasons which the undersigned had the honor to state in that note; and with thanks, because he saw that the sentiments which had urged him to request with warmth a prompt reply, had been kindly interpreted. The undersigned, in consequence, went immediately to New York, where he visited, on the 29th ultimo, the attorney of the United States, with whom he had a long conversation, which left him delighted with the affability and courtesy of Mr. Butler, although he did not have the happiness to remain satisfied as to the principal matter, as that officer of justice declared that he could find no other means of obtaining the liberty of Ruiz (Montes being already free) than by waiting the determination of the court or courts, against the jurisdiction of which the undersigned had already especially protested.

Considering that the Spanish Government has, just within these few days past, given to that of the United States a proof of the strictness with which it observes treaties, and of the respect which it bears to the jurisdiction of the courts of this country, by sending from Havana the original documents of the prosecution against Mr. Abraham Wendell, the captain of the brig Franklin, for maltreatment of his mate, William Bell; that the undersigned is well persuaded that what he has said to the Secretary of State, in the two conferences preceding his note of October 22d, and

the indications contained therein, would have been sufficient to convince one so enlightened and discriminating of the justice of his claim; that this persuasion has gained strength, from the circumstance that the Secretary of State has made no attempt in his answer to oppose those arguments, but has confined himself to endeavoring to explain the course of civil causes in the courts of this country, in order to show that the Government of the United States could not interfere in the manner in which Her Catholic Majesty's representative requested; it becomes necessary to advance further arguments, at the risk of being importunate.

It is allowed by the whole world that a court cannot take cognizance of crimes or *delinquencies* committed in other countries, or other jurisdictions, and under other laws, the application of which is not intrusted to it; as, also, that petitions or accusations of slaves against their masters cannot be admitted in a court. If, however, all this were not well known and established, does not the seventh article of the treaty of 1795 apply to this case? What says that article? It says that, in case an American citizen should contract debts or *commit offences* in the dominions of His Catholic Majesty, or a Spaniard in the United States, the proceedings for his arrest and all others against him shall be conducted in the manner already established, &c. &c. All of which, as the Spanish minister said in his note of the 22d, and also the circumstances above mentioned relative to the prosecution of Mr. Wendell, prove that neither of the two contracting parties could or wished to renounce their respective jurisdiction. And as the incompetence of the courts of the United States, with regard to this matter, is so clearly demonstrated, is there no power in the Federal Government to declare it so, and to interpose its authority to put down the irregularity of these proceedings, which the court is not competent to perform? It seems impossible that there should be no such power; but, unfortunately, there is none.

Her Catholic Majesty's envoy extraordinary and minister plenipotentiary, nevertheless, seeing that his previous protest did not produce the result which he expected, renews it now, declaring this Government responsible for the consequences which may grow out of this affair; and he asks the Secretary of State whether or not he possesses sufficient authority and force to carry into fulfilment the treaty of 1795? If he has not, then there can be no treaty binding on the other party.

The undersigned flatters himself that he will obtain a speedy reply, as required by the nature of the case and the rights of a Spanish subject, who is suffering an unjust and unlawful imprisonment; and he, at the same time, repeats to the Secretary of State the assurances of his most high consideration.

THE CHEVALIER DE ARGAIZ.

To the Hon. JOHN FORSYTH,  
*Secretary of State.*

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*Acting Secretary of State to the Chevalier de Argaiz.*

DEPARTMENT OF STATE,  
Washington, November 22, 1839.

Upon the receipt of the note addressed, on the 5th instant, to this department, by the Chevalier de Argaiz, envoy extraordinary and minister plenipotentiary of Spain, in relation to the arrest of Mr. Ruiz, in a civil

suit against him before a court of law in New York, the undersigned, acting Secretary of State, transmitted, by order of the President, to the attorney of the United States for the district of New York, directions again to inquire into the circumstances of the case, and to report his opinion as to the authority of the United States Government ~~to~~ interfere in behalf of Mr. Ruiz, for the purpose of procuring his release from imprisonment, as requested by the Chevalier de Argaiz.

The undersigned, having received the report of the district attorney, hastens to communicate the enclosed copy of it to the Chevalier de Argaiz; and avails himself of this opportunity to offer him renewed assurances of his distinguished consideration.

A. VAIL,  
*Acting Secretary of State.*

The Chevalier DE ARGAIZ, &c. &c. &c.

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*The Chevalier de Argaiz to Mr. Forsyth.*

[TRANSLATION.]

WASHINGTON, November 26, 1839.

The new delay which the court in Connecticut has just granted, fixing the 7th of January next for the trial of the case of the schooner *Armistad*, places the undersigned envoy extraordinary and minister plenipotentiary of Her Catholic Majesty under the necessity of repeating to the Secretary of State of the General Government of the United States his former complaints.

To the first complaint, made by his predecessor, on the 6th of September last, nothing more than an acknowledgment of its receipt was thought necessary, which was made on the 16th of the same month. In the answers which the Secretary was pleased to give to the notes of the undersigned, of the 22d of October and the 5th of November last, that gentleman did not think proper to combat the arguments advanced. Those which the undersigned now proposes to present will be no less powerful, and he hopes will be such that the Secretary will not be able to deny their justice.

The undersigned has the honor to ask in what law, act, or statute, does the said court base its right to take cognizance of the present case?

There can be no doubt as to the reply: On no law, act, or statute. For, if any such existed, it is, or should be, anterior or posterior to the treaty of 1795. If anterior, it clearly became annulled, because a treaty is one of the superior laws of the State, or the treaty should never have been signed, or ratified, or sanctioned by the legislative bodies. If posterior to the treaty, the legislative bodies, in drawing it up, discussing it, and voting on it, must have seen that it was at variance with a subsisting treaty, which was already a law of the Union. All which serves to show that, in the existing state of the laws, this affair cannot and should not be decided by the common law, but by the international law.

The predecessor of the undersigned, resting no doubt upon this conviction, demanded, on the 6th of September last, the restitution of the schooner, with all her cargo; and, if the General Government of the Union had decided this matter of itself, (*gubernativamente*,) the owners would have soon availed themselves of the right allowed them by the



treaty, according to which the vessel and her goods, of *whatever nature they may be*, should be restored; for they had been, as the 8th article says, forced in order to escape from enemies, (who kept them prisoners on board of the vessel herself,) and there was, therefore, an urgent necessity to seek refuge and shelter on the coasts of the United States, where they should have been, agreeably to the stipulations of the same article, "received and treated with all humanity, and enjoy all favor, protection, and help;" and where they were in no ways to be hindered from returning out of the said ports or roads, but to be allowed to remove and depart when and whither they pleased, without any let or hindrance.

Very different, however, have been the results; for, in the first place the treaty of 1795 has not been executed, as the legation of Her Catholic Majesty has solicited; and the public vengeance has not been satisfied, for be it recollected that the legation of Spain does not demand the delivery of slaves, but of assassins. Secondly, great injury has been done to the owners; not the least being the imprisonment which Don Jose Ruiz is now undergoing, notwithstanding the complaints made on that subject, which, if not entirely disregarded, have at least not produced the favorable results which might have been expected; and the dignity of the Spanish nation has thus been offended. With respect to which injuries, the undersigned will, on a proper occasion, use his right; although no indemnifications can fully recompense for the evils, physical and moral, which the persecutions and vexations occasioned by fanaticism may cause to an honorable man.

Thus it appears that a court of one of the States of the confederacy has assumed the direction of an affair over which it has no jurisdiction; that there can be no law, either anterior or posterior to the treaty, upon which a legal sentence can be based; that this court, by the repeated delays which it orders, contributes to delay the satisfaction demanded by public justice; and that, in consequence, the affair should only be determined by reference to international right, and, therefore, by the exercise of the power of the Government, (*gubernativamente*;) that, for its determination, the treaty exists to which Spain appeals; that, from the delay on this determination, have proceeded injuries requiring indemnification, to demand which the undersigned reserves the exercise of his right for a future occasion. The undersigned may, without indiscretion, declare that this must be the opinion of the cabinet, which, possessing already the necessary and even indispensable powers, may immediately act (*gubernativamente*) in this matter, in virtue of the actual state of the law, and without awaiting the decision of any court. Not to do so, may give rise to very complicated explanations with regard to reciprocity in the execution and fulfilment of treaties.

The undersigned flatters himself with the hope that his excellency the President will take into his high consideration this communication, to which the undersigned hopes for a speedy answer, as a new proof of the scrupulousness and respect with which this nation fulfils the treaties existing with other nations. If, contrary to this hope, the decision should not be such as the undersigned asks, he can only declare the General Government of the Union responsible for all and every consequence which the delay may produce. The undersigned avails himself of this opportunity to repeat to the Secretary of State the assurances, &c.

THE CHEVALIER DE ARGAIZ.

HON. JOHN FORSYTH,  
Secretary of State.



*The Chevalier de Argaiz to Mr. Forsyth.*

[TRANSLATION.]

WASHINGTON, November 29, 1839.

The undersigned received on the 22d instant, with the note from Mr. Vail, the acting Secretary of State, the copy of the opinion which had been asked from the attorney of the United States at New York, by order of the President.

Although the envoy extraordinary of Her Catholic Majesty does not intend to enter, at present, into a discussion (*polemica*) with regard to this affair, he cannot still do less than declare that he views the question of the imprisonment of Don Jose Ruiz in a very different light; and to demonstrate, at the same time, so far as reasoning will go, that the Government of the United States is bound to extend to the said Ruiz more favor, protection, and assistance, than it has as yet granted him, which has been no more than directing the abovementioned attorney to offer him his advice, (and assistance if there should be occasion;) that is to say, the Government has given him an attorney *gratis*, as all courts allow to those accused persons who, from want of means, cannot defend themselves. Taking this affair from its commencement, the situation of Ruiz on his arrival in the United States is to be considered. Having embarked in the schooner *Amistad*, at the port of Havana, for the purpose of carrying some negroes belonging to him to Guanaja, and being provided with the documents required by the law and the ordinances, he set sail on the 28th of June last; on the night of the 29th-30th of the same month, the negroes rebel; they assassinate the captain, and his cook, a negro man; two white sailors alone, of the crew, escape in the boat; Montes is wounded and ill-treated, though his life, as well as that of Ruiz, is spared, from the mere necessity on the part of the negroes to save themselves; and they are obliged to manage the vessel, which, instead of steering to the eastward, as the mutineers wished, they brought to the coasts of the United States; and a vessel belonging to the Union carries them into New London.

On their arrival in the United States, Montes and Ruiz claimed the protection allowed them by the international law; and the envoy extraordinary and minister plenipotentiary of Her Catholic Majesty, Señor Calderon de la Barca, made a request to that effect to the Government of the Union, on the 6th of September last, based upon the provisions of the treaty of 1795.

This treaty, in its 8th article, says: "In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity for seeking of shelter and harbor, to retreat and enter into any of the rivers, bays, roads, or ports, belonging to the other party, they shall be received and treated with all humanity, and enjoy all favor, protection, and help; and they shall be permitted to refresh, and provide themselves, at reasonable rates, with victuals and all things needful for the subsistence of their persons, or reparation of their ships, and prosecution of their voyage; and they shall no ways be hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance." Now, have Montes and Ruiz received in the United States "*all favor, protection and help?*" Have they not been detained and hindered from returning out of the ports or roads of the United States? Have they

*been allowed to remove and depart when and how they pleased, without any let or hindrance?* The prison of New York can answer all these questions.

It is in vain to say that the imprisonment of Montes and Ruiz has no connection with treaties, as it is in consequence of a civil prosecution. Who has set on foot this prosecution? The whole nation knows the prosecution has been set on foot legally by three men, who by their declaration that they had been sold in Africa, prove the state of slavery in which they were in that country. Now, if they were slaves in their own country, how do they come to be here in the enjoyment of civil rights? Moreover, a criminal accusation is now hanging over them; and in every civilized country the said rights would be always suspended with respect to persons lying under such accusations.

But even supposing these negroes to be in the United States competent to begin civil prosecutions; let the treaty of 1795 be opened, and in its 7th article it will be seen that, "in all cases of seizure, detention, or arrest for debts contracted, or offences committed, by any citizen or subject of the one party, within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceeding usual in such cases." If the delinquencies against which the negroes complain, and on account of which they are now prosecuting, have been really committed, they were committed before the negroes became masters of the schooner *Amistad*—that is to say, in the island of Cuba, or in its waters; and, therefore, according to the letter and the spirit of this stipulation, they should come under the jurisdiction of that island, and by no means under that of the courts of these States; and on this point it is that the undersigned differs entirely in opinion from the attorney of the United States for the district of New York.

The case of the imprisonment and Persecutions to which Señor Ruiz has been subjected has now been presented in a clear light. Señor Ruiz should, agreeably to the 8th article of the treaty, have found "favor, protection, and help" in the United States; and he found a prison, in which he has been suffering since the 17th of October last. *He was not to be detained or hindered in any way from returning out of these ports or roads*, but, on the contrary, *had the right to remove and depart whenever he pleased, without let or hindrance*. Now, is it no hindrance to set on foot a civil prosecution against him, when it is well known that the plaintiffs have no part in it? Is not an imprisonment, or the bail that is required, a hindrance?

And does the General Government of the Union, while knowing that "the imprisonment of those persons connects itself with another occurrence which has been brought under the President's consideration, in consequence of a correspondence between the Spanish legation and the Department of State," conceive that it has done its duty by giving instructions to the attorney of the United States for the district of New York to put himself in communication with Ruiz, and to offer him his advice (and his aid, if necessary) as to any measure which it may be proper for him to adopt in order to procure his release, which, as I have before observed, amounts to nothing more than giving him an attorney gratis?

The representative of Her Catholic Majesty is so far from being satisfied with this resolution, that he cannot avoid declaring that, according to his imperfect knowledge and understanding, the General Government is bound, in compliance with the stipulations of the treaty, to defend the said Ruiz officially, by giving for him the bail required, and setting him at liberty, so as to place him in the position assured to him by the treaty of 1795. This

the undersigned, envoy extraordinary and minister plenipotentiary of Her Catholic Majesty now demands in virtue of the letter and sense of the stipulations of that treaty.

The undersigned renews to Mr. Forsyth, Secretary of State of the General Government of the Union, the assurances of his high consideration.

THE CHEVALIER DE ARGAIZ.

Hon. JOHN FORSYTH,  
*Secretary of State.*

*Mr. Forsyth to the Chevalier de Argaiz.*

DEPARTMENT OF STATE,  
Washington, December 12, 1839.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of two notes addressed to him on the 1st and 26th of last month by the Chevalier de Argaiz, envoy extraordinary and minister plenipotentiary of Spain; the one complaining of delay in the decision of the Government of the United States on his application for the surrender of the schooner *Amistad*, her cargo, and the negroes found on board; and the other, claiming the agency of the Executive in the defence of Don Jose Ruiz, in a civil suit against him, now pending before a court of law in the city of New York, and the security of the United States in a bail-bond for his release from arrest in the suit referred to.

In the note which the undersigned addressed to Mr. Calderon de la Barca on the 16th September last, he stated that the application for the delivery of the "*Amistad*," and the property found on board, had been submitted for the consideration of the President, and that his decision would as soon as received, be communicated to the Spanish legation. In another note of the 23d of the same month, calling for evidence deemed useful in the examination of the questions arising from the case of the "*Amistad*," the minister of Spain might have found a proof that his application was receiving all the notice and respect which was due to the source from which it emanated; and it was hoped that, in the various conversations which have since taken place with the Chevalier de Argaiz at this department, on the same subject, he would have discovered additional evidence of the desire of the United States Government to do justice to the demand and representations addressed to it in the name of that of Spain, as fully and as promptly as the peculiar character of the claim admitted. From the repeated communications of the Chevalier de Argaiz, pressing for the disposal of the question; from his reiterated offer of suggestions as to the course by which he deems it incumbent upon this Government to arrive at a final decision; and from the arguments in support of those suggestions, which the undersigned does not perceive the utility of combating at the present stage of the transaction; the Government of the United States cannot but perceive with regret that the Chevalier de Argaiz has not formed an accurate conception of the true character of the question, nor of the rules by which, under the constitutional institutions of the country, the examination of it must be conducted; nor a correct appreciation of the friendly disposition towards Her Catholic Majesty's Government, with which that examination was so promptly entered upon. In connection with one of the points in the Chevalier de Argaiz's last note,

the undersigned will assure him that, whatever be, in the end, the disposal of the question, it will be in consequence of a decision emanating from no other source than the Government of the United States; and that, if the agency of the judicial authority shall have been employed in conducting the investigation of the case, it is because the judiciary is, by the organic law of the land, a portion, though an independent one, of that Government.

As to the delay which already has attended, and still may attend, a final decision, and which the Chevalier de Argaiz considers as a legitimate subject of complaint, it arises from causes which the undersigned believes that it would serve no useful purpose to discuss at this time, further than to say that they are beyond the control of this department, and that it is not apprehended that they will affect the course which the Government of the United States may think it fit ultimately to adopt.

The undersigned indulges the hope that, upon a review of the circumstances of the case, and of the questions it involves, the Chevalier de Argaiz will agree with him in thinking that the delay which has already occurred is not more than commensurate with the importance of those questions; that such delay is not uncommon in the proceedings and deliberations of Governments desirous of taking equal justice as the guide of their actions; and that the caution which it has been found necessary to observe in the instance under consideration, is yet far from having occasioned such procrastination as it has been the lot of the United States frequently to encounter in their intercourse with the Government of Spain.

With regard to the imprisonment of Don Jose Ruiz, it is again the misfortune of this Government to have been entirely misapprehended by the Chevalier de Argaiz, in the agency it has had in this, an entirely private concern of a Spanish subject. It was no more the intention of this department, in what has already been done, to draw the Chevalier de Argaiz into a polemical discussion with the attorney of the United States for the district of New York, than to supply Don Jose Ruiz, *gratis*, with counsel in the suit in which he had been made a party. The offer made to that person of the advice and assistance of the district attorney, was a favor—an entirely gratuitous one—since it was not the province of the United States to interfere in a private litigation between subjects of a foreign state, for which Mr. Ruiz is indebted to the desire of this Government to treat with due respect the application made in his behalf in the name of Her Catholic Majesty, and not to any right he ever had to be protected against alleged demands of individuals against him or his property.

And in communicating to the Chevalier de Argaiz the legal opinion of the district attorney, this department had no other object or expectation than to produce in his mind, by arguments founded upon the laws both of this country and of Spain, a conviction that this Government can no more grant the request set up in behalf of Don Jose Ruiz, than it could undertake to decide upon the legality of the claim preferred against him by the plaintiffs in the suit which occasioned his imprisonment.

In support of his application for Executive intervention in the liberation of Don Jose Ruiz, the Chevalier de Argaiz quotes the 7th article of the treaty of 1795 between the United States and Spain; and then puts the following questions, which the undersigned will answer by stating the facts as they have come to his knowledge:

Have Messrs. Montes and Ruiz received in the United States "all favor, protection, and help?"



Have they been detained, or not ?

Have they, or not, in any manner been prevented from leaving the ports or roads of the United States ?

Have they been allowed to remove or depart when and as they pleased, without any let or hindrance ?

Messrs. Ruiz and Montes were first found near the coast of the United States, deprived of their property and of their freedom, suffering from lawless violence in their persons, and in imminent and constant danger of being deprived of their lives also. They were found in this distressing and perilous situation by officers of the United States, who, moved towards them by sympathetic feeling, which subsequently became, as it were, national, immediately rescued them from personal danger, restored them to freedom, secured their oppressors that they might abide the consequences of the acts of violence perpetrated upon them, and placed under the safeguard of the laws all the property which they claimed as their own, to remain in safety until the competent authority could examine their title to it, and pronounce upon the question of ownership, agreeably to the provisions of the 9th article of the treaty of 1795.

From the moment of their liberation, they were left perfectly free to remain in the United States, to visit any part of the country, or to depart from it, without let or hindrance, as their business or inclination might suggest. Their property was under the protection of this Government, and its authority acknowledged by the legation of Her Catholic Majesty ; and if they chose to continue in the State into which they were first conducted, or to travel into other States, they remained under the ordinary protection of the laws of the United States, the benefits of which have not been, and will not be, denied to them. And in proof of this, one of them, Don Pedro Montes, is no longer within American jurisdiction.

All the stipulations in the 7th article of the treaty have been fulfilled by the agents of the United States, in all that regards the personal rights of those two Spanish subjects, with a promptitude, fidelity, and kindness, in which they were supported and approved by public sentiment, so far as it lay in their power to enforce them ; and no cause of dissatisfaction would have arisen in that respect, had they not deferred availing themselves of their freedom to leave the country until arrested, at the suit of individuals, alleging against them private claims, which constitutes, in the eye of the law of the land, liabilities ; the extent and validity of which can only be determined by a court of competent jurisdiction. To such a court, and for such a purpose, the plaintiffs have resorted ; and if the proceedings of that court have been according to law, and the same as if the parties defending were citizens of the United States, nothing is perceived in those proceedings which can be justly made a subject of complaint against the Government of the United States, under existing treaties. Among the powers within the competency of the court before which the case is pending, is that of releasing the defendant from actual imprisonment, upon his giving the usual security, not for the payment of the damages claimed by the plaintiffs, but merely for his appearance to abide the decision of the court. If Mr. Ruiz, relying upon other protection, has declined availing himself of the only one which the law provides and places within his own reach, the hardship he suffers, and of which the Chevalier de Argaiz complains in his behalf, is in some degree voluntary, and can only be made to cease when he shall himself apply the proper remedy, or when the tribunal shall, by due course of legal proceedings, have arrived at a judgment, which the undersigned has no doubt will ul-

timately answer all the demands of justice. If the proceedings against Mr. Ruiz shall be found to have been unwarranted by the existing law, all the meddling persons who can be shown to have been parties to his imprisonment are answerable to him, by the laws of the country; and proper remuneration will be, no doubt, obtained, if he chooses to resort to the tribunals to enforce his claims upon them.

The undersigned cannot conclude this communication without calling the attention of the Chevalier de Argaiz to the fact, that, with the single exception of the vexatious detention to which Messrs. Montes and Ruiz have been subjected in consequence of the civil suit instituted against them, all the proceedings in the matter, on the part of both the executive and judicial branches of the Government, have had their foundation in the assumption that those persons alone were the parties aggrieved; and that their claim to the surrender of the property was founded in fact and in justice. This circumstance alone, independently of those above stated, should, in the opinion of the undersigned, have been sufficient to convince the Chevalier de Argaiz that the condition of Messrs. Ruiz and Montes had, like the interposition of Her Catholic Majesty's Government in their behalf, found every proper degree of favor and consideration at the hands of the United States Government.

The undersigned avails himself of the occasion to renew to the Chevalier de Argaiz assurances of his distinguished consideration.

JOHN FORSYTH.

The Chevalier DE ARGAIZ, &c.

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*The Chevalier de Argaiz to Mr. Forsyth.*

[TRANSLATION.]

WASHINGTON, December 25, 1839.

The undersigned has the honor to acknowledge the receipt of the note addressed to him under date of the 12th instant, by the Secretary of State of the Government of the Union, to which it would be superfluous (*ocioso*) to reply, inasmuch as the Secretary of State does not seem to have considered it requisite, in the present situation of the affair, to combat the arguments adduced by the undersigned. The delicacy of the undersigned does not, however, allow him to pass over (*desoir*) certain insinuations, (remarks) contained in the said note; and it will, perhaps, be difficult for him to avoid adducing some new argument in support of his demands.

Mr. Forsyth's answer to the demands of the undersigned may be considered as referring, first, to the business of the demand for the delivery of the schooner *Amistad*; and, secondly, to the actual situation of Don Jose Ruiz.

With regard to the first subject, Mr. Forsyth recalls to mind what he said to this legation in his communications of the 16th and 23d of September last; and, referring to these, he says that "the minister of Spain might have therein found a proof that his application was receiving all the notice and respect due to the source from which it emanated; and it was hoped that the Chevalier Argaiz would, in the various conversations held with him at this department on the same affair, have discovered additional evidence of the desire of the United States to do justice to the de-



mand and representation addressed to them in the name of her Catholic Majesty."

The undersigned regrets exceedingly that the Secretary of State should have already forgotten that, since the 6th of September, the Spanish legation, confiding in the goodness of its cause, and on the high opinion which it entertains of the impartial justice of the Government of the United States, took no other measure whatsoever, but even, to a certain extent, ran the risk of subjecting itself to the charge of neglecting the interests of Spanish subjects. The undersigned did, indeed, on the 3d of October, request that the cargo of the schooner should be delivered to him, as it might easily be injured; but he took care, at the same time, to say in his note that "he solicited an act of justice, which did not at all interfere with the main question, as yet undetermined by the cabinet, relative to the negroes who were found in the schooner;" all which clearly proves that the undersigned would not have troubled the Government of the Union with his urgent demands, if the two Spaniards (who, as the Secretary of State, in his note of the 12th, says "were found in this distressing and perilous situation by officers of the United States, who, moved by sympathetic feelings, which subsequently became national") had not been the victims of an intrigue, as accurately shown by Mr. Forsyth, in the conference which he had with the undersigned on the 21st of October last.

This explanation, which the undersigned has considered indispensable, will doubtless serve again to convince the Secretary of State of the desires which animated Señor Argaiz until the 19th of October last, and which he was obliged with regret to relinquish, in consequence of the imprisonment of the two Spaniards above mentioned.

The Secretary of State, however, says that "he cannot but perceive with regret that the Chevalier de Argaiz has not formed an accurate conception of the true character of the question, nor of the rules by which, under the constitutional institutions of this country, the examination of it must be conducted." Possibly the undersigned may not have formed such an accurate conception of this affair, since it has been carried within the circle of legal subtleties, as he has not pursued the profession of the law; but he is well persuaded that, if the crew of the *Amistad* had been composed of white men, the court, or the corporation to which the Government of the Union might have submitted the examination of the question, would have observed the rules by which it should be conducted under the constitutional institutions of the country, and would have limited itself to the ascertainment of the facts of the murders committed on the 30th of June; and the undersigned does not comprehend the privilege enjoyed by negroes, in favor of whom an interminable suit is commenced, in which every thing is deposed by every person who pleases; and, for that object, an English doctor, who accuses the Spanish Government of not complying with its treaties, and calumniates the Captain General of the island of Cuba, by charging him with bribery.

The undersigned with pleasure receives the assurance given to him by the Secretary of State, in a subsequent part of the note, "that, whatever may be the final settlement of the question, it will be in consequence of a decision emanating from the Government, and not from any other source;" and he doubts not such decision will be conformable with the opinion which was confidentially communicated to him at the Department of State on the 19th of November, as founded on that of a learned lawyer. and which he was assured had been adopted by the cabinet.

The undersigned, as he has already declared, would be, and is, fully

disposed not to complain of the delay which has occurred, and, if necessary, to "*think it commensurate with the importance of the questions.*" If the causes of dissatisfaction consequent upon this delay had not exacerbated the question, or, rather, the dispositions of the undersigned as well as of the administration, which the undersigned hopes to see restored to their former harmony, if he can succeed in convincing the Secretary of State that nothing but a sense of duty, which he considers imperious, would have excited him to be at times importunate, while in his personal character, he is more prudent and conciliatory.

The undersigned cannot and has no power to remove the delays to which the claims of the United States are subjected in Madrid. The decision with regard to the demand lately made by the sloop of war Boston, at Havana, was not, however, thus delayed. The communication addressed by the Captain General of that island to the Government was made on the 14th of January last, and the documents of that trial have now been in the hands of this Government about two months; and, as the undersigned learns, though he cannot assert it positively, the circumstances which led to that trial were committed in that port itself. If they were there committed, the courts of Cuba would, according to the opinion of learned lawyers, have the right to take cognizance of them; and if they were so committed, the Government of Her Catholic Majesty has doubtless preferred renouncing this right, and thus giving to that of the United States a new proof of its disposition to strengthen farther the bonds of friendship which fortunately unite the two nations.

The Secretary of State, in his abovementioned note, then goes on to treat the second part of the subject—that is to say, the seizure of Messrs. Ruiz and Montes; and alleges that the assistance given by the attorney of the United States for the district of New York was a favor entirely gratuitous, afforded to Ruiz in consequence of the desire, on the part of the government of the Union, to give due respect to the petition in his favor made in the name of Her Catholic Majesty. The undersigned has endeavored to show that the Government of this Union was under the obligation to place Ruiz in such a position as should assure the fulfilment of the 8th article of the treaty of 1795. Unfortunately, the reasons assigned with this view have not been sufficiently powerful to produce conviction in the mind of the Secretary of State; nor is the undersigned more convinced by the declaration of the Secretary of State, that "no cause of dissatisfaction would have arisen in this affair, had they not deferred availing themselves of this liberty, to leave the country until the moment of their arrest," &c. Certainly they would not have remained in the country so long; and they would have abandoned it, to the injury of their interests, had they been able to foresee that, though respecting the laws and conducting themselves honorably, they were not exempt from the persecutions of an atrocious intrigue, (and the undersigned is not the first who has thus styled this persecution,) as if they could have imagined that, for supposed delinquencies committed in their own country, or under their own national flag, they would have been confined in a prison, or required to give enormous bail. They, however, believed the contrary, (what few Spaniards can now persuade themselves of;) that, while infringing no law or police regulation, they would enjoy their individual liberty in this republic. And, sir, who will not be shocked at the complaint preferred against them? By whom is it preferred? The undersigned, in addition to all that he has said on this subject, will now add, that the complainants (if the negroes be the complainants) may be considered,

morally and legally, as not being in the United States. They are morally and legally not in the United States, because the court of Connecticut has not declared whether or not it is competent to try them. If it should declare itself incompetent, it declares that they are under the cover of the Spanish flag; and, in that case, they are physically under the protection of a friendly Government, but morally and legally out of the territory and jurisdiction of the United States; and, so long as a doubt remains on this subject, no Judge can admit the complaint. If this argument be of any value with the Secretary of State of the Government of the Union, the undersigned entreats him to prevail on the President to cause a protest, founded upon this argument, to be officially addressed to the court of New York.

The undersigned flatters himself with the hope that the Secretary of State of the Union will conceive how painful it is to him to trouble that gentleman again about this affair, and will also see that he is under the obligation to do so. If the persecution under which Señor Ruiz is suffering were the consequence of his own faults, if his conduct in these United States had been such as to render his arrest just, the undersigned would have abandoned him to his own means of defence, and would never have intruded upon the attention of the Secretary of State.

But unfortunately, this affair is so closely allied to that of the *Amistad*, that the undersigned cannot, without a heavy responsibility, refrain from doing whatever his sense of duty dictates.

The undersigned avails himself of this opportunity to repeat to the Secretary of State of the Federal Government of the Union the assurances of his very high consideration.

THE CHEVALIER DE ARGAIZ.

Hon. JOHN FORSYTH,  
*Secretary of State.*

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*The Chevalier de Argaiz to Mr. Forsyth.*

[TRANSLATION.]

WASHINGTON, December 30, 1839.

SIR: In the conversation which I had with you on the morning of the day before yesterday, you mentioned the possibility that the court of Connecticut might, at its meeting on the 7th of January next, declare itself incompetent, or order the restitution of the schooner *Amistad*, with her cargo, and the negroes found on board of her; and you then showed me that it would be necessary for the legation of Her Catholic Majesty to take charge of them as soon as the court should have pronounced its sentence or resolution; and, although I had the honor to state to you that this legation could not possibly transfer the said negroes to Havana, still it appears proper for me now to declare that—

Considering that the schooner *Amistad* cannot make a voyage, on account of the bad condition in which she is, of her being entirely without a crew;

Considering that it would be difficult to find a vessel of the United States willing to take charge of these negroes, and to transport them to Havana; and, also, that these negroes have declared before the court of Connecticut that they are not slaves, and that the best means of testing the truth of their allegation is to bring them before the courts of Havana:

Being at the same time desirous to free the Government of the United States from the trouble of keeping the said negroes in prison, I venture to request you to prevail upon the President to allow to the Government of Her Catholic Majesty the assistance which it asks under the present circumstances from that of the United States, by placing the negroes found on board of the said schooner, and claimed by this legation, at the disposition of the Captain General of the island of Cuba, transporting them thither in a ship belonging to the United States. Her Catholic Majesty's Government, I venture to assert, will receive this act of generosity as a most particular favor, which would serve to strengthen the bonds of good and reciprocal friendship now happily reigning between the two nations.

I, for my own part, confiding in your kindness, do not hesitate to declare that I shall be most happy to be able to announce to my Government this new proof of friendship, for which I now, by anticipation, give thanks.

I repeat to you, sir, the assurances of my distinguished consideration,  
**THE CHEVALIER DE ARGAIZ.**  
 HON. J. FORSYTH, *Secretary of State.*

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*Mr Forsyth to the Chevalier de Argaiz.*

DEPARTMENT OF STATE,  
 Washington January 6, 1840.

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo, in which, anticipating an early decision by the circuit court of Connecticut in the case of the schooner "Amistad," you request that as a particular favor to the Spanish Government, the President may be pleased, in the event of the decision of the court being favorable to the application of the Spanish legation for the surrender of the vessel, and the negroes and property found on board, to place the negroes at the disposition of the Captain General of Cuba, and to grant the use of a vessel of the United States for the purpose of conveying them to that island.

Having laid your note before the President, I am instructed to state to you that, in the event of the decision of the circuit court of Connecticut, in the case referred to, being such as anticipated, the schooner "Amistad," which you represent as not being in a condition to go to sea, will, with such goods as were found on board, be delivered to any persons whom you may designate; and that, animated by that spirit of accommodation and reciprocal convenience which the President is anxious should ever characterise the relations between the two Governments, he will cause the necessary orders to be given for a vessel of the United States to be held in readiness to receive the negroes and convey them to Cuba, with instructions to the commander to deliver them to the Captain General of the island. The President has the more readily been inclined to accede to your request in this particular, on account of one of the leading motives which prompted you to make it: that the negroes, having asserted before the court of Connecticut that they are not slaves, may have an opportunity of proving the truth of their allegation before the proper tribunals of the island of Cuba, by whose laws alone, taking in connection with circumstances occurring before the arrival of the negroes in the Unit-

ed States, the question of their condition can be legally decided. With a view to facilitate any steps which the authorities of Cuba may think fit to institute in the matter, by unquestionable testimony, as to the circumstances attending the arrival of the negroes in the United States, and the proceedings in our courts consequent thereon, the President has thought proper further to order that a complete record of those proceedings be prepared and forwarded to the Captain General of Cuba, by the officer who shall have charge of the negroes; and that Lieutenants Gedney and Meade, by whose agency, chiefly, those people were brought within our jurisdiction, shall proceed in the same vessel, for the purpose of offering to the local authorities their testimony, and the benefit of the knowledge they possess of the circumstances of the case. To aid those officers in the performance of the duty thus to be assigned to them, I request that you will furnish them, through this department, with letters of introduction to such of the colonial authorities as you may think proper; and inasmuch as that for the purpose of their intended visit to Cuba they may be withdrawn from the discharge of their ordinary duties, I request further that you will express to the proper quarter the desire of the President that, if their testimony shall appear useful or important, it may be taken with as little delay as practicable, that they may be enabled soon to return to the United States.

Be pleased to accept the renewed assurances of my distinguished consideration.

JOHN FORSYTH.

The Chevalier DE ARGAIZ, &c., &c., &c.

*Mr. Holabird to Mr. Forsyth.*

[EXTRACT.]

DISTRICT OF CONNECTICUT,

*Office of District Attorney, Winchester, September 5, 1839.*

SIR: You are undoubtedly apprised of the fact that the marshal of this district has in custody the Spanish schooner "Amistad," with her cargo and 41 blacks, supposed to be slaves. A court of inquiry has been holden by the district judge of this district on board the schooner, and the blacks indicted for the murder of the captain and mate. It appears from the evidence that the blacks (slaves) were taken on board the schooner at a port in the island of Cuba, to transport to another port in the same island; when from seven to ten leagues out, they murdered the captain and mate, and took possession of the schooner, (27th or 28th of June.) On the 26th of August last they were discovered off Montauk point by the crew of the surveying brig Washington, commanded by Lieutenant Gedney, and by him boarded and brought into the port of New London, in this district. The blacks were committed, and are now in the jail at New Haven. The schooner and cargo have been libelled by Lieutenant Gedney and crew for salvage. The next term of our circuit court sits on the 17th instant, at which time I *suppose* it will be my duty to bring them to trial, unless they are in some other way disposed of. Should you have any instructions to give on the subject, I should like to receive them as soon as may be.

I am, very respectfully, your obedient servant,

W. S. HOLABIRD,

*United States District Attorney.*

HON. JOHN FORSYTH, *Secretary of State*



*Mr. Holabird to Mr. Forsyth.*

[EXTRACTS.]

"HARTFORD, (CONN.) September 9, 1839.

"SIR: I wrote you a few days since on the subject of the *blacks* taken on board the Spanish schooner 'Amistad.' Since then I have made a further examination of the law on the subject of the jurisdiction of our courts, which has brought me fully to the conclusion, that the courts neither of this nor of any other district in the United States can take cognizance of any offence they have committed, as the offence by them committed was done and committed on board a vessel belonging exclusively to citizens of a foreign State, on the high seas, and on and against subjects of a foreign State: and they (the blacks) not being citizens of the United States, the vessel having a national character at the time the offence was committed. I refer you to the case of the *United States vs. Palmer et al.*, 3 Wheat., p. 610; *United States vs. Pirates*, 5 Wheat., p. 195; and the more recent case of the *United States vs. Henry Kessler*, Baldwin, C. C. Rep. 15.

"I would respectfully inquire, sir, whether there are no treaty stipulations with the Government of Spain that would authorize our Government to deliver them up to the Spanish authorities; and if so, whether it could be done before our court sits?"

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*Mr. Forsyth to Mr. Holabird.*

DEPARTMENT OF STATE,

Washington, September 11, 1839.

SIR: Since the receipt of your letter of the 5th instant, relative to the case of the Spanish schooner "Amistad," brought into the port of New London on the 26th ultimo, by Lieutenant Gedney, of the surveying brig Washington, a communication has been addressed to this department by the minister of Her Catholic Majesty, claiming the vessel, cargo, and blacks on board, as Spanish property, and demanding its immediate release. Mr. Calderon's application will be immediately transmitted to the President for his decision upon it, with which you will be made acquainted without unnecessary delay. In the mean time you will take care that no proceeding of your circuit court, or of any other judicial tribunal, places the vessel, cargo, or slaves beyond the control of the Federal Executive.

I am, sir, your obedient servant,

JOHN FORSYTH.

WM. S. HOLABIRD, Esq.,

*United States Attorney for the district of Conn., Winchester.*

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*Mr. Holabird to Mr. Forsyth.*

DISTRICT OF CONNECTICUT,

*Circuit Court, Hartford, September 21, 1839.*

SIR: Your instructions on the subject of the negroes brought in in the *Amistad* was duly received on the day the session of the court com-



menced, and the contents thereof communicated to the court. As the court did not charge the grand jury at the opening of the court, I thought it my duty, and deemed it, as the matter stood, advisable to file bills of indictment against the negroes, and did so, for the murder of the captain and cook of the schooner, and also for piracy; also, with a view of carrying out your instructions, filed a libel in the district court against the negroes, in behalf of the United States, averring the fact that Her Catholic Majesty the Queen of Spain had demanded of the Government the surrendering, &c.; and also alleging that they were imported in violation of the law of 1819, prohibiting the importation of negroes from Africa, &c.; praying the court to decree that the marshal hold them subject to the order of the Federal Executive on the *one* claim or the *other*, as the facts should be found and warrant. Dons Pedro Montes and Jose Ruiz have also filed claims for such portions of the negroes and cargo as respectively belonged to them; the Spanish consul also filed a claim in behalf of the representatives of Captain Ferrer, deceased, for the schooner and part of the cargo. A writ of *habeas corpus* was then prayed out in this court, in behalf of the negroes, by Tappan, &c. The grand jury, after two days of investigation, came into court with a finding of facts, to wit: That the schooner was owned by Captain Ferrer, a Spanish subject; sailed from Havana for the port of Guanaja, in the island of Cuba; third day out, the negroes murdered the captain and cook, and took possession of the schooner, &c.; and requested the court to charge them on the law, applicable to that state of facts. The court charged that they had jurisdiction of any offence they (the negroes) may have committed on board that vessel.\* The *habeas corpus* has been under discussion the last two days. They take the ground that the district court has not jurisdiction; that the Federal Executive is not authorized to surrender the blacks, under the treaty stipulations with Spain, nor as fugitives from justice, under international law. The court probably entertain doubts, as they have requested the case re-argued. The court will probably decide the question on Monday next.

I hope, sir, in case the Executive makes any order on the subject of the negroes, that you will give me early notice of it.

I am, sir, very respectfully, your obedient servant, in haste,

W. S. HOLABIRD,  
*United States District Attorney.*

HON. JOHN FORSYTH,  
*Secretary of State.*

\* It was exactly the reverse. Judge Thompson stated that no criminal offence had been committed by the Africans cognizable by the Courts of the United States. "If," said he, "the offence of murder has been committed on board a foreign vessel, with a foreign crew and with foreign papers, this is not an offence against the United States. It is an offence against the laws of the country to which the vessel belonged. The courts of the United States have, in such cases, no jurisdiction—but if the offence be against the law of nations this court would have jurisdiction. A murder committed, as in the case of the *Amistad*, is not a crime against the law of nations, connected as it is with the slave trade." This extract is from the opinion of Judge Thompson, reported for the newspapers and extensively published at the time. The judge, after perusing this letter of Mr. Holabird, told the writer of this note that he had been made to say in it precisely the reverse of what he did say, and that his opinion was very correctly reported in the papers from which the above quotation is an extract.

*Mr. Forsyth to Mr. Holabird.*

DEPARTMENT OF STATE,  
Washington, September 23, 1839.

SIR : It is necessary to a just decision on the various points presenting themselves for the President's consideration, in the case of the Spanish schooner "Amistad," that this department should be furnished with a copy of the ship's papers, together with a transcript of the proceedings of the court of inquiry held by the district judge on board the vessel, to which you refer in your letter of the 5th instant, and on which the blacks were imprisoned for the alleged murder of the captain and mate. I have, therefore, to request that you will transmit to me, with as little delay as practicable, copies of the papers, and of the evidence aforementioned.

I am, sir, your obedient servant,

JOHN FORSYTH.

W. S. HOLABIRD, Esq.,  
U. S. Attorney for the Dist. of Conn., Hartford.

*Mr. Holabird to Mr. Forsyth.*

DISTRICT OF CONNECTICUT,  
Office of District Attorney, Winchester, October 13, 1839.

SIR : Yours of the 23d ultimo, requesting copies of the papers of the "Amistad," together with a transcript of the proceedings of the court of inquiry held by the district judge on board the schooner, did not reach me until the 7th instant; since which time I have used every reasonable endeavor to possess myself of the papers of said schooner, without yet being able to obtain them, they having been retained by Jose Ruiz. I hope soon to be able to comply with your request.

The facts regarding the matter were not as fully disclosed at the court of inquiry as they afterwards were before the grand jury, at the circuit court.

On the 22d instant, in pursuance of the order of the court, I intend to make a particular examination of the place where the schooner lay when taken possession of by Lieutenant Gedney.

I am, sir, your obedient servant,

W. S. HOLABIRD,  
U. S. District Attorney.

Hon. JOHN FORSYTH, Secretary of State.

*Mr. Holabird to Mr. Forsyth.*

NEW HAVEN, November 5, 1839.

SIR : I herewith send you copies of the papers found on board the Spanish schooner Amistad at the time she was taken. Also a copy of the first warrant on which the blacks were committed.

You will find, by reference to my several letters written you since the commencement of the United States circuit court, on the 17th day of September last, an account of the proceedings which have been had on the matter. As a final decision is to be had on the third Tuesday of instant November, allow me to suggest, that, if there is any action to be

had on the part of the Government, with reference to the blacks, it is important that we be informed, either officially or unofficially, before the session of the court. As directed by the court, I have made an examination of the place where the Amistad lay at the time she was taken, and find her lying *clearly* and *decidedly* upon the high seas. She lay a little withinside of Montauk Point, in  $3\frac{1}{2}$  to 4 fathoms water, and about three-fourths of a mile distance from the shore, there being no harbor, bay, or inlet, to protect her in the least.

I am, very respectfully, sir, your obedient servant,

W. S. HOLABIRD,

U. S. District Attorney, Conn. Dist.

Hon. JOHN FORSYTH,

Secretary of State, Washington City.

[Passport for J. Ruiz.]

[Passport for P. Montes.]

*Passport for 49 slaves belonging to J. Ruiz.*

N. HABANA, 26 de Junio de 1839.

Filiacion.		Contedo licencia, á cuerenta y nueva negros
Estatura	-	ladinos, nombrados Antonio, Simon, Lucas, José,
Edad	-	Pedro, Martin, Manuel, Andres, Eduardo, Celedo-
Color	-	nio, Bartolo, Ramon, Agustin, Evaristo, Casimiro,
Pelo	-	Melchor, Gabriel, Santorion, Escolastico, Pascual,
Frente	-	Estanislao, Desiderio, Nicolas, Esteban, Tomas,
Cejas	-	Cosme, Luis, Bartolo, Julian, Frederico, Salustiano,
Ojos	-	Ladislao, Celestino, Epifaneo, Tibureo, Venancio,
Nariz	-	Felipe, Francisco, Hipolito, Benito, Ysidoro, Vi-
Boca	-	cente, Dionisio, Apoloneo, Esequiel, Leon, Julio,
Barba	-	Hipolito, y Zenon, de la propiedad de Don José
Señales particulares	-	Ruiz, para que pasen á Puerto Principe por mar, debiendo presentarse con esta al juez territorial respectivo.

Espelata—Derecho dos reales—una rubrica Comandancia de Matriculas. Pasan en la goleta Amistad á la Guanaja, patron Ferrer.

Habaña, y Junio 27 de 1839.

MARTINEZ.

*Passport for three slaves belonging to P. Montes.*

N. HABANA, 22 de Junio de 1839.

Filiacion.		
Estatura	-	
Edad	-	
Color	-	
Pelo	-	
Frente	-	
Cejas	-	
Ojos	-	
Nariz	-	
Boca	-	
Barba	-	
Señales particulares	-	Concedo licencia á tres negras ladinas, nombradas Juana, Francisca, y Josefa, de la propiedad de Don Pedro Montes, para que pasen á Puerto Principe por mar, debiendo presentarse con esta al juez territorial respectivo.

Espeleta—Derecho dos reales—una rubrica. Comandancia de Matriculas. Pasan en la goleta Amistad à la Guanaja, patron Ferrer.

Habana, y Junio 27 de 1839.

MARTINEZ.

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[Protection for Celestino Ferrer.]

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[Protection for Jacinto Verdagne.]

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[Register of the Amistad, her clearance and passport, by all the authorities for the crew and passengers, vessel, &c.]

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[Permit of the custom-house for shipping goods.]

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[Passport for J. Ruiz.]

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[Passport for P. Montes.]

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*Passport for 49 slaves belonging to J. Ruiz.*

HAVANA, June 26, 1839.

Description.	
Height - -	I grant permission to forty-nine sound negroes,* named Antonio, Simon, Lucas, Jose,
Age - -	Pedro, Martin, Manuel, Andres, Edward, Ce-
Complexion - -	ledonio, Bartolo, Ramon, Agustin, Evanisto,
Eyes - -	Casimiro, Melchior, Gabriel, Santorion, Es-
Nose - -	colastico, Pascual, Estanislao, Desiderio, Nic-
Mouth - -	olas, Esteban, Tomas, Cosme, Luis, Bartolo,
Skin - -	Julian, Frederico, Salustiano, Ladislao, Ce-
Eyebrows - -	lestino, Epifaneo, Tiburcio, Venducio, Fe-
Beard - -	lipse, Hipolito, Benito, Isidoro, Vicente, Dio-
Particular Marks -	nisisio, Apoloneo, Esequiel, Leon, Julio, Hipolito, and Zenon, all belonging to Don Jose Ruiz, to go to Puerto Principe by sea, they being required to present themselves before the respective territorial judges.

\* "Sound negroes!" This is a fraudulent translation—See the original Spanish document, page 30. There the phrase is "negros ladinos," which, as is well known, means *negroes long settled in Cuba*, and acclimated there, and introduced before 1820—a term totally inapplicable to *Bozals* or negroes recently imported. See deposition in District Court by Dr. Madden, British Superintendent of liberated Africans at Havana. And yet the officers of the United States Court have procured a translation of the Passport, in which "negros LADINOS" is made to read "sound negroes!" And this is contained in a public document, transmitted to Congress by the President of the United States, and published by authority of the House of Representatives!!

Espeleta—Duty two reals—one stamp. Comandancia de Matriculas.  
They go in the schooner Amistad, Captain Ramon Ferrer, to Guanaja.  
Havana, June 27, 1839. MARTINEZ.

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*Passport for three slaves belonging to P. Montes.*

HAVANA, June 22, 1839.

Description.	
Height	I grant permission to three sound negro
Age	women,* named Juana, Francisca, and Jose-
Complexion	fa, belonging to Don Pedro Montes, to go to
Eyes	Puerto Principe by sea, they being required
Nose	to present themselves before the respective
Mouth	territorial judges.
Skin	
Eyebrows	
Beard	
Particular marks	

Espeleta—Duty one real—one signature. Comandancia de Matriculas.  
They go in the schooner Amistad, Captain Ferrer, to Guanaja.  
Havana, June 27, 1839. MARTINEZ.

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[*Protection for Celestino Ferrer.*]

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[*Protection for Jacinto Verdagne.*]

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[*Register of the Amistad, her clearance and passport, by all the authorities, for the crew and passengers, vessel, &c.*]

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[*Permits of the Custom-house for shipping goods.*]

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*To the Marshal of the district of Connecticut, greeting:*

Whereas, upon the complaint and information of the United States by William S. Holabird, district attorney of the United States for said district against Simon, Lucas, Joseph, Peter, Martin, Manuel, Andrew, Edward, Caledonio, Bartholomew, Raymond, Augustin, Evaristo, Casimir, Melchior, Gabriel, Santorion, Escolastico, Paschal, Stanislaus, Desiderio, Nicholas, Stephen, Thomas, Cosme, Louis, Bartholomew, Julian, Frederick, Sallustiano, Ladislao, Celestino, Epiphaneo, Tiburcio, Venducio, Philip, Hypolite, Benito, Isidore, Vincent, Dyonisius, Apoloneo, Ezekiel, Leon, Julius, Hypolite, and Zenon, for the murder of Ramon Ferrer, on the 25th day of June, 1839, on the high seas, within the admiralty and

\* The words here translated "sound negro women" are in the original Spanish (see page 29) "negras ladinas," that is *negroes long settled in Cuba*. See note on page 30.



maritime jurisdiction of the United States, it was ordered and adjudged by the undersigned that they, against whom said information and complaint was made, stand committed to appear before the circuit court of the United States for the district of Connecticut, to be holden at Hartford, in said district, on the 17th day of September, 1839, to answer to the said crime of murder, as set forth in said information and complaint.

You are therefore commanded to take the said persons named as above, and charged with said crime, and them safely keep in the jail in New Haven, in said district, and them have before the circuit court of the United States, to be holden at Hartford, in said district, on the 17th day of September, A. D. 1839. Hereof fail not, &c.

Dated at New London, August 29, 1839.

ANDREW P. JUDSON,

*Judge of the United States for the district of Connecticut.*

DISTRICT OF CONNECTICUT, ss.

Then I proceeded to arrest the within named persons, but found they did not answer to the names set forth in this warrant, they being the names given them at Havana for the purpose of shipment, but found them to answer to the following names, to wit : Cinque, Barnah 1st, Carpru, Demurah, Forrie 1st, Thumah, Wolwah, Tooch, Couomah, Choolah, Barnah 2d, Boah, Cabbah, Poomah, Rimbo, Puah, Bang-te-ah, Saah, Coulu, Poule, Morrah, Yahonie, Nahquoe, Quahto, Lesse, Cen, Forrie 2d, Kennah, Larmance, Fajanah, Faah, Yahboy, Fahquanah, Berrie, Fawnie, Chackamaso, Gahbow, and Fasa, I therefore took the above-named persons into custody, and them committed to the custody and keeping of the jailer at New Haven, in said district ; and left with the said jailer a true and attested copy of this warrant ; and now, on this 17th of September, 1839, have them in my custody at Hartford, as within, except Fasa, who died September 3d, Faah, who died September 11th, and Wolwah, who died September 14, 1839.

NEW LONDON, *August 29, 1839.*

Attest :

NORRIS WILCOX,

*United States Marshal for the district of Connecticut.*

MARSHAL'S OFFICE, *November 1, 1839.*

The foregoing is a true copy of the original warrant, with my doings thereon endorsed.

Attest :

N. WILCOX, *Marshal.*

*To the Marshal of the district of Connecticut, greeting :*

Whereas, upon the complaint and information of the United States by William S. Holabird, Esq., district attorney of the United States for said district, against Simon and others, for the murder of Ramon Ferrer, on the 25th day of June, 1839, on the high seas, within the admiralty and maritime jurisdiction of the United States, it was ordered and adjudged that they, the said Simon and others, stand committed to appear before the circuit court of the United States for the district of Connecticut, to be holden at



Hartford, in said district, on the 17th day of September, 1839, to answer to the crime as set forth in said complaint: and whereas Joanna, Frances, Ann, Josephine, and Anthony, witnesses for the United States in said information and complaint, were ordered by the undersigned severally to become recognised to the United States, with surety in the sum of one hundred dollars, to appear before said circuit court at the time and place above named, as witnesses to testify to the charge set forth in said complaint and information; and they, and each of them, having neglected to become recognised as aforesaid, you are, therefore, commanded to take the said Joanna, Frances, Ann, Josephine, and Anthony, and them safely keep in the jail in New Haven in said district, and them have before the circuit court of the United States, to be holden at Hartford, in said district, on the 17th day of September, 1839. Hereof fail not, &c.

Dated at New London, August 29, 1839.

ANDREW P. JUDSON,  
*Judge of the U. S. for the District of Connecticut.*

DISTRICT OF CONNECTICUT, ss.

Then I took into custody the within named persons answering to the following names, to wit: Antonio, Time, Kine, Mahgra, and Carrii, and them committed into the custody and keeping of the keeper of the jail in New Haven, in said district of Connecticut; and left with said jailer a true and attested copy of this warrant; and now, on this 17th day of September, A. D. 1839, them have in my custody at Hartford, as within I am directed.

Attest:

NORRIS WILCOX,  
*U. S. Marshal for District of Connecticut.*

NEW LONDON, August 29, 1839.

MARSHAL'S OFFICE, NEW HAVEN,  
November 1, 1839.

The foregoing is a true copy of the original, with my doings thereon endorsed.

Attest:

N. WILCOX, *Marshal.*

*Mr. Holabird to Mr. Forsyth.*

DISTRICT OF CONNECTICUT,  
*Office of Dist. Att'y, Winchester, November 14, 1839.*

SIR: I am under the necessity of asking for authority to draw on the marshal of the district for a reasonable sum, to enable me to employ assistant counsel in the case of the Amistad and negroes. My health is feeble; and if the matter is not disposed of by the Executive before our court sits, much is to be done. The fees allowed to the district attorney in this district are so small, that should I surrender all that could be taxed to my assistant counsel, it would not be considered really as any compensation. I named this subject to the President at Albany; who remarked that, in case I found it necessary, I could make the application to you.

I am, sir, with great respect, your obedient servant,

W. S. HOLABIRD.

Hon. JOHN FORSYTH,  
*Secretary of State.*

*Acting Secretary of State to Mr. Holabird.*

DEPARTMENT OF STATE,

*Washington, November 18, 1839.*

SIR: Your letter of the 14th instant was, last evening, received at this department. The President, to whom it has been submitted, has instructed me to authorize you to employ an assistant counsel in the case of the *Amistad*, whose compensation, not to exceed two hundred dollars, will be determined by this department.

I am, sir, your obedient servant,

A. VAIL,

*Acting Secretary of State.*

W. S. HOLABIRD, Esq.,

*Att'y U. S. for Dist. of Conn., New Haven.*

*Mr. Forsyth to Mr. Holabird.*

DEPARTMENT OF STATE,

*Washington, January 6, 1840.*

SIR: Your letter of the 20th ultimo was duly received, and has been laid before the President. The Spanish minister having applied to this department for the use of a vessel of the United States, in the event of the decision of the circuit court in the case of the *Amistad* being favorable to his former application, to convey the negroes to Cuba, for the purpose of being delivered over to the authorities of that island, the President has, agreeably to your suggestion, taken in connection with the request of the Spanish minister, ordered a vessel to be in readiness to receive the negroes from the custody of the marshal as soon as their delivery shall have been ordered by the court.\* As the request of the Spanish minister for the delivery of the negroes to the authorities of Cuba has, for one of its objects, that those people should have an opportunity of proving, before the tribunals of the island, the truth of the allegations made in their behalf in the course of the proceedings before the circuit court that they are not slaves, the President, desirous of affording the Spanish courts every facility that may be derived from this country towards a fair and full investigation of all the circumstances, and particularly of the allegation referred to with regard to the real condition of the negroes, has directed that Lieutenants Gedney and Meade be directed to proceed to Cuba, for the purpose of giving their testimony in any proceedings that may be instituted there in the premises; and that complete records of all those which have been had before the circuit court of your district, including the evidence taken in the cause, be, with the same view, furnished to the Spanish colonial authorities. In obedience to this last mentioned order,

\* A most extraordinary procedure. The government could not wait, it seems, to learn the decision of the court before taking action to facilitate the designs of the Spaniards in removing their victims from the shores of this free country. And this was done, at the suggestion of the U. S. Attorney for the District of Connecticut, in connection with the request of the Spanish minister! In the sequel it will be seen that the object was to remove the Africans before the case could be appealed by their counsel. To W. S. Holabird, Esquire, of Connecticut, belongs the infamy of making this "suggestion," so eagerly entertained by the government of the United States.

you will cause to be prepared an authentic copy of the records of the court in the case, and of all the documents and evidence connected with it, so as to have it ready to be handed over to the commander of the vessel which is to take out the negroes, who will be instructed as to the disposition he is to make of them.

With regard to the schooner *Amistad*, which the Spanish minister represents not to be in a condition to be sent to sea, and the goods found on board as part of her cargo, as the presumption is that the court will decree the same disposition of them as of the negroes, they are to remain in the custody of the marshal, to be delivered over to such persons as the Spanish minister may appoint; subject, however, in case of their being sold in the United States, to the legal demands of the custom-house upon them.

I am, sir, your obedient servant,

JOHN FORSYTH.

W. S. HOLABIRD, Esq.,

*Att'y U. S. for Dist. of Conn., New Haven.*

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*Mr. Holabird to Mr. Forsyth.*

NEW HAVEN, *January 11, 1840.*

SIR: Lieutenant Paine has shown me the Executive warrant to the marshal of this district for the delivery of the negroes of the *Amistad*, in which it is stated that they are now holden in custody under a process from the "*circuit court*;" and also, in his instructions, the same term is used. They are not holden under any order of the circuit court, but under an order from the *district court*, and should have been so stated in the warrant and instructions. Should the pretended friends of the negroes obtain a writ of habeas corpus, the marshal could not justify under that warrant.

The marshal wishes me to inquire whether, in the event of a decree by the court requiring him to release the negroes, or in case of an appeal by the adverse party, it is expected the Executive warrant will be executed; and requests your instructions on that subject.

I have deemed it my duty to dispatch a messenger asking a correction of the aforesaid errors in the warrant and instructions, and your additional instructions on the points aforesaid, as requested by the marshal.\*

We are progressing with the trial. The evidence is all in, and the case will probably be submitted to the court to-day; and a decision will undoubtedly be had by the time the bearer will be able to return to this place.

In great haste, I am, sir, your obedient servant,

W. S. HOLABIRD,

*United States District Attorney.*

Hon. JOHN FORSYTH,

*Secretary of State.*

\* The indecent haste of the government in affording facilities to the Spaniards to remove their victims is seen in the phrasology of the warrant of the President of the United States, in which the term "*Circuit Court*" is used for "*District Court*" (see page 48) an error requiring the dispatch of a special messenger to Washington to have it rectified so that a legal warrant might be obtained from the seat of government before the conclusion of the trial, lest perchance, an appeal should be entered, and thus the design of government be defeated!

*Mr. Forsyth to Mr. Holabird.*

[CONFIDENTIAL.]

DEPARTMENT OF STATE, *January 12, 1840.*

SIR : Your letter of the 11th instant has just been received. The order for the delivery of the negroes of the *Amistad* is herewith returned, corrected agreeably to your suggestion. With reference to the inquiry from the marshal, to which you allude, I have to state, by direction of the President, that, if the decision of the court is such as is anticipated, the order of the President is to be carried into execution, unless an appeal shall actually have been interposed. You are not to take it for granted that it will be interposed.\* And if, on the contrary, the decision of the court is different, you are to take out an appeal, and allow things to remain as they are until the appeal shall have been decided.

I am, sir, your obedient servant,

JOHN FORSYTH.

W. S. HOLABIRD, Esq.,

*Attorney U. S., Marshal for Dist. of Connecticut.*

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\* *Mr. Forsyth to Mr. Holabird.*

DEPARTMENT OF STATE,

*Washington, January 17, 1840.*

SIR : The instructions in my communication of the 12th instant, in relation to the case of the *Amistad*, the decision of which has been received at this department, would probably supersede the necessity of any further directions as to the course left for you to pursue. For fear, however, that that communication should not have reached you, I have to acquaint you with the desire of the President, that you take the necessary measures to carry the case, by appeal, to the circuit court, both on that branch of the decision which relates to the negroes, and that which grants salvage on the vessel and the goods found on board. That part which concerns the slave Antonio is not to be disturbed; and instructions will be forwarded to you, designating the parties to whom he is to be delivered up.

From information which has reached this department, there appears to be a disposition, on the part of the parties interested in the vessel and cargo, either to sell the property, and deposit the proceeds to abide the final issue of the case, or to ask the delivery of it on bond, to answer the same contingency. With a view to save the property from further loss by deterioration, you are desired to countenance any movement that may be made in this regard by the proper persons, taking care that the rights of all be effectually and equally protected; but no proposition, in this particular, is to be made by you without further instructions from this department, which will be given if the Spanish minister shall request them.

I am, sir, your obedient servant,

JOHN FORSYTH.

W. S. HOLABIRD, Esq., *Attorney*

*U. S. District of Connecticut, New Haven.*

\* Mark this!—"You are not to take it for granted that it (an appeal) will be interposed." That is, if the Counsel for the Africans do not enter an appeal *instantly*, the Africans are to be hurried on board the U. S. Schooner *Grampus*, and taken to Cuba—there to be made a terrific example of to terrify the Bozal negroes not to make a similar strike for liberty!

*Opinion of the Attorney General.*

ATTORNEY GENERAL'S OFFICE, 1839.

SIR: I have the honor to acknowledge the receipt of yours of the 24th of September, in which, by direction of the President, you refer to this office the letter of the Spanish minister of the 6th of September, addressed to you; also the letter of Seth P. Staples and Theodore Sedgwick, jr., Esqrs., who have been engaged as counsel for the negroes taken on board the schooner *Amistad*, addressed to the President of the United States; and asking my opinion upon the different legal questions presented by these papers.

I have given to the subject all the consideration which its importance demands; and now present to you, and through you to the President, the result of my reflections upon the whole subject.

The following is the statement of facts contained in your communication: "The *Amistad* is a Spanish vessel; was regularly cleared from Havana, a Spanish port in Cuba, to Guanaja, in the neighborhood of Puerto Principe, another Spanish port; that her papers were regular; that the cargo consisted of merchandise and slaves, and was duly manifested as belonging to Don José Ruiz and Don Pedro Montes; that the negroes, after being at sea a few days, rose upon the white persons on board; that the captain, his slave, and two seamen, were killed, and the vessel taken possession of by the negroes; that two white Spaniards, after being wounded, were compelled to assist in navigating the vessel, the negroes intending to carry her to the coast of Africa; that the Spaniards contrived, by altering the course of steering at night, to keep her on the coast of the United States; that, on seeing land off New York, they came to the coast, and some of the negroes landed to procure water and provisions; that, being on the point of leaving the coast, the *Amistad* was visited by a boat from Captain Gedney's vessel, and that one of the Spaniards, claiming protection from the officer commanding the boat, the vessel and cargo, and all the persons on board, were sent into New London for examination, and such proceedings as the laws of nations and of the United States warranted and required."

In the intercourse and transactions between nations, it has been found indispensable that due faith and credit should be given by each to the official acts of the public functionaries of others. Hence the sentences of prize courts under the laws of nations, or admiralty, and exchequer or other revenue courts, under the municipal law, are considered as conclusive as to the proprietary interest in, and title to, the things in question; nor can the same be examined into in the judicial tribunals of another country. Nor is this confined to judicial proceedings. The acts of other officers of a foreign nation, in the discharge of their ordinary duties, are entitled to the like respect. And the principle seems to be universally admitted, that, whenever power or jurisdiction is delegated to any public officer or tribunal, and its exercise is confided to his or their discretion, the acts done in the exercise of that discretion, and within the authority conferred, are binding as to the subject matter; and this is true, whether the officer or tribunal be legislative, executive, judicial, or special.—Wheaton's *Elements of International Law*, page 121; 6th Peters, page 729.

Were this otherwise, all confidence and comity would cease to exist among nations; and that code of international law, which now contri-



butes so much to the peace, prosperity, and harmony of the world, would no longer regulate and control the conduct of nations. Besides, in this case, were the Government of the United States to permit itself to go behind the papers of the schooner *Amistad*, it would place itself in the embarrassing condition of judging upon the Spanish laws, their force, effect, and their application to the case under consideration.

This embarrassment and inconvenience ought not to be incurred. Nor is it believed a foreign nation would look with composure upon such a proceeding, where the interests of its own subjects or citizens were deeply concerned. In addition to this, the United States would necessarily place itself in the position of judging and deciding upon the meaning and effect of a treaty between Spain and Great Britain, to which the United States is not a party. It is true, by the treaty between Great Britain and Spain, the slave trade is prohibited to the subjects of each; but the parties to this treaty or agreement are the proper judges of any infraction of it, and they have created special tribunals to decide questions arising under the treaty; nor does it belong to any other nation to adjudicate upon it, or to enforce it. As, then, this vessel cleared out from one Spanish port to another Spanish port, with papers regularly authenticated by the proper officers at Havana, evidencing that these negroes were slaves, and that the destination of the vessel was to another Spanish port, I cannot see any legal principle upon which the Government of the United States would be authorized to go into an investigation for the purpose of ascertaining whether the facts stated in those papers by the Spanish officers are true or not. Suppose, however, that the evidence contained in these papers should not be entitled to all the effect I have given it; would that change or alter the course which should be pursued by the Government? I think it would not; and a reference to the principles of international law, as approved and sanctioned by our judicial tribunals, will clearly show it. In the case of the *Antelope*, (10 Wheaton, page 66,) this subject was fully examined, and the opinion of the Supreme Court of the United States establishes the following points:

1. That, however unjust and unnatural the slave trade may be, it is not contrary to the law of nations.

2. That, having been sanctioned by the usage and consent of almost all civilized nations, it could not be pronounced illegal, except so far as each nation may have made it so by its own acts or laws; and these could only operate upon itself, its own subjects or citizens; and, of course, the trade would remain lawful to those whose Government had not forbidden it.

3. That the right of bringing in and adjudicating upon the case of a vessel charged with being engaged in the slave trade, even where the vessel belongs to a nation which has prohibited the trade, cannot exist. The courts of no country execute the penal laws of another, and the course of the American Government on the subject of visitation and search would decide any case in which that right had been exercised by an American cruiser, on the vessel of a foreign nation not violating our municipal laws, against the captors.

It follows, that a foreign vessel engaged in the African slave trade, captured on the high seas in time of peace, by an American cruiser, and brought in for adjudication, would be restored.

The opinions here expressed go far beyond the present case; they embrace cases where the negroes never have been within the territorial limits of the nation of which the claimant is a citizen. In this case, the



negroes were in the island of Cuba, a portion of the dominions of Spain; they were there recognised and treated as property by the Spanish authorities of the island. And after this, in their transmission from the port of Havana to another Spanish port, the occurrence took place which has given rise to this investigation. This vessel was not engaged in the slave trade; she was employed lawfully in removing these negroes, as slaves, from one part of the Spanish dominions to another, precisely in the same way that slaves are removed, by sea, from one slave State to another in our own country. I consider the facts as stated, so far as this Government is concerned, as establishing a right of ownership to the negroes in question, in the persons in whose behalf the minister of Spain has made a demand upon the Government of the United States.

Under the statement of facts, another inquiry which presents itself, is, What power does the Government of the United States possess, or what jurisdiction has it for the purpose of trial and punishment, over the persons of these men of color, who are charged with having risen upon the captain and crew, and murdered the captain and part of the crew, and took the vessel under their own control?

If these acts, according to the principles of international law, or under the acts of the Congress of the United States, constitute or amount to piracy, then jurisdiction to try and punish belongs to the United States.

The question arises, Do these acts constitute piracy?

"Piracy is defined to be the offence of depredating on the seas, without being authorized by any sovereign State, or with commissions from different sovereigns at war with each other." "Pirates being the common enemies of all mankind, and all nations having an equal interest in their apprehension and punishment, they may be lawfully captured on the high seas by the armed vessels of any particular State, and brought within its territorial jurisdiction for trial by its tribunals."—Wheaton's Elements of International Law, page 113.

Chancellor Kent, in his Commentaries, (vol. 1, page 183,) says, "Piracy is robbery, or a forcible depredation, on the high seas, without lawful authority, and done *animo furandi*, and in the spirit and intention of universal hostility. It is the same offence at sea with robbery on land; and all the writers on the law of nations, and on the maritime law of Europe, agree in this definition of piracy. Pirates have been regarded by all civilized nations as the enemies of the human race, and the most atrocious violators of the universal law of society. They are everywhere pursued and punished with death; and the severity with which the law has animadverted upon this crime arises from its enormity and danger, the cruelty that accompanies it, the necessity of checking it, the difficulty of detection, and the facility with which robberies may be committed upon pacific traders in the solitude of the ocean. Every nation has a right to attack and exterminate them, without any declaration of war; for though pirates may form a loose and temporary association among themselves, and re-establish, in some degree, those laws of justice which they have violated with the rest of the world, yet they are not considered as a national body, or entitled to the laws of war, as one of the community of nations. They acquire no rights by conquest, and the law of nations and the municipal law of every country authorize the true owner to reclaim his property taken by pirates, wherever it can be found; and they do not recognize any title to be derived from an act of piracy. The principle, that *a piratis et latronibus capta dominium non mutant* is the received opinion of ancient civilians, and modern writers on general jurisprudence;

and the same doctrine was maintained in the English courts of common law prior to the great modern improvements made in the science of the law of nations."

In the case of the United States against Smith, (5 Wheaton, page 153,) the Supreme Court of the United States clearly recognise the foregoing description and definitions of piracy, and state *that the defendant in that case, and his associates, were, at the time of committing the offence, freebooters upon the sea, not under the acknowledged authority, or deriving protection from, the flag or commission of any Government; and therefore, the defendant was subject to trial within the United States.* From this language it may clearly be inferred that, had the vessel been sailing under the authority and flag of any particular Government, the defendant would *not have been* subject to trial in any court of the United States; but that his case would have been exclusively within the jurisdiction of the tribunals of that State under whose commission, authority, or flag he was navigating his vessel. And in the case of the United States vs. Palmer, (3 Wheaton, page 610,) the Supreme Court of the United States expressly decided that the crime of robbery committed by a person on the high seas, on board of a ship belonging exclusively to subjects of a foreign State, on persons in a vessel belonging exclusively to subjects of a foreign State, was not piracy under the act of Congress approved on the 30th of April, 1790, and was not punishable in the courts of the United States. In the case now before me, the vessel is a Spanish vessel, belonging exclusively to Spaniards, navigated by Spaniards, and sailing under Spanish papers and flag, from one Spanish port to another. It therefore follows, unquestionably, that any offence committed on board is cognizable before the Spanish tribunals, and not elsewhere.

These two points being disposed of—1st. That the Government of the United States is to consider these negroes as the property of the individuals in whose behalf the Spanish minister has put up a claim; 2d. That the United States cannot proceed against them criminally;—the only remaining inquiry is, what is to be done with the vessel and cargo? the negroes being a part of the latter.

A case like the present is not embraced by any of the legal provisions contained in the different acts of Congress, so as to justify this Government, in any of its departments, to act upon it for the purpose of transporting these negroes to Africa. In the construction of the different acts of Congress in relation to the "slave trade," it is to be observed that the statutes operate only where our municipal jurisdiction might be applied, consistently with the general theory of international law, to the persons of our citizens or to foreigners on board of American vessels.—1 Kent's Commentaries, page 182; 3 Wheaton, page 610.

And, it may be added, that those acts would operate, of course, upon all persons who might violate them within the limits of the United States. But the claimants of these negroes have violated none of our laws. They are within the limits of the United States, to be sure, with their own consent; but that consent resulted from, and was produced by, circumstances so imperious and overruling in their nature, as to have left them no choice. They have not come within our territories with the view or intention of violating the laws of the United States; nor had they, before their arrival within the waters of the United States, been guilty of an infraction of them. They have not introduced these negroes into the United States for the purpose of sale, or holding them in servitude within the United States; so far from any illegal intention or design to violate the laws of

the United States being established upon the claimants, the case clearly shows that not only no violation of our laws has been committed, but no such violation was in contemplation. It therefore appears to me that this subject must be disposed of upon principles of international law and the existing treaties between Spain and the United States.

It would scarcely be doubted that, under the law of nations, property rescued from pirates or robbers by a vessel belonging to a friendly Power, and brought into a port of that friendly Power, would be restored to the rightful owners; and this, without any treaty stipulation.

The 9th article of the treaty between Spain and the United States, dated 27th October, 1795, (which has been continued in force by a subsequent treaty,) is as follows: "All ships and merchandise of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either state, and shall be delivered to the custody of the officers of that port, in order to be taken care of, and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof."

This makes the case much stronger in favor of the Spanish claimants. There can be no difference, in reason, whether the vessel be captured on the high seas, or within our own waters or ports; because, if captured on the high seas, they are to be brought into port and delivered into the custody of the appropriate public officers; and if captured after having already come into a port, they should be treated in like manner. It therefore seems to me that this case is clearly within the spirit and meaning of the 9th article, and that the vessel and cargo should be restored entire, so far as practicable.

My opinion further is, that the proper mode of executing this article of the treaty, in the present case, would be for the President of the United States to issue his order, directed to the marshal in whose custody the vessel and cargo are, to deliver the same to such persons as may be designated by the Spanish minister to receive them. The reasons which operate in favor of a delivery to the order of the Spanish minister are—

1. The owners of the vessel and cargo are not all in this country, and, of course, a delivery cannot be made to them.

2. This has become a subject of discussion between the two Governments, and, in such a case, the restoration should be made to that agent of the Government who is authorized to make, and through whom the demand is made.

3. These negroes are charged with an infraction of the Spanish laws; therefore, it proper that they should be surrendered to the public functionaries of that Government, that if the laws of Spain have been violated, they may not escape punishment.

4. These negroes deny that they are slaves; if they should be delivered to the claimants, no opportunity may be afforded for the assertion of their right to freedom. For these reasons, it seems to me that a delivery to the Spanish minister is the only safe course for this Government to pursue.

I have the honor to be, with great respect, your humble servant.\*

HON. JOHN FORSYTH,

*Secretary of State.*

\* This remarkable letter has no signature, nor any date but 1839. But it is right that the world should know that the *Attorney General of the United States of America*, who gave this opinion to the President, after giving to the subject "all the consider-

*Messrs. Staples and Sedgwick to the President of the United States.*

NEW YORK, September 13, 1839.

SIR: We have been engaged as counsel of the Africans brought in by the Spanish vessel, the *Amistad*; and, in that capacity, take the liberty of addressing you this letter.

These Africans are now under indictment in the circuit court of the second circuit on a charge of piracy, and their defence to this accusation must be established before that tribunal. But we are given to understand, from authority not to be doubted, that a demand has already been made upon the Federal Government, by the Spanish minister, that these negroes be surrendered to the authorities of his country; and it is on this account that we now address you.

We are also informed that these slaves are claimed under the 9th article of the treaty of 1795, between this country and Spain, by which all ships and merchandise rescued out of the hands of pirates and robbers on the high seas are to be restored to the true proprietor, upon due and sufficient proof.

We now apply to you, sir, for the purpose of requesting that no order may be made by the Executive until the facts necessary to authorize its interposition are established by the judicial authority in the ordinary course of justice. We submit that this is the true construction of the treaty; that it is not a mere matter of Executive discretion; but that, before the Government enforces the demand of the Spanish claimant, that demand must be substantiated in a court of justice.

It appears to us manifest that the treaty could never have meant to have submitted conflicting rights of property to mere official discretion, but that it was intended to subject them to the same tribunals which, in all other cases, guard and maintain our civil rights. Reference to the 7th article, in our opinion, will confirm this position.

It will be recollected that, if we adopt this as the true construction of the treaty, should any occasion ever arise when our citizens shall claim the benefit of this section, Spain would be at liberty to give it the same interpretation; and that the rights of our citizens will be subjected to the control of subordinate ministerial agents, without any of those safeguards which courts of justice present for the establishment of truth and the maintenance of rights. We submit, further, that it never could be intended that the Executive of the Union should be harassed by the investigation of claims of this nature, and yet, assuredly, if the construction be contended for be correct, such must be the result; for, if *he* is to issue the order upon due and sufficient proof, the proof must be sufficient to his mind.

We further submit that, in regard to the Executive, there are no rules of evidence nor course of proceeding established; and that, in all such cases, unless the claimant be directed to the courts of justice, the conduct of the affair must, of necessity, be uncertain, vague, and not such as is calculated to inspire confidence in the public or the parties. We can find

ation which its importance demands," was the Hon. Felix Grundy, from Tennessee, and now a Senator of the United States. What evidence this opinion furnishes of the fitness of the gentleman for the high office of Attorney-General, members of the legal profession may determine. It is sufficient to say that it is contrary to the opinions of the most eminent jurists this country has produced, and it would seem that a lawyer who would venture on promulgating such doctrines was unfit to be even an attorney of the most inconsiderable district in the United States.



nothing in the treaty to warrant the delivery of these individuals as offenders ; and the Executive of the Union has never thought itself obliged, under the laws of nations, to accede to demands of this nature.

These suggestions are of great force in this case, because we, with great confidence, assert, that neither according to the law of this, nor that of their own country, can the pretended owners of these Africans establish any legal title to them as slaves.

These negroes were, it is admitted, carried into Cuba, contrary to the provisions of the treaty between Spain and Great Britain of 1817, and of the orders made in conformity therewith ; orders which have been repeated, at different times, to as late a date as the 4th November, 1838, by which the trade is expressly prohibited ; and if they had been taken on board the slaver, they would have been unquestionably emancipated.

They were bought by the present claimants, Messrs. Ruiz and Montes, either directly from the slaver, or under circumstances which must, beyond doubt, have apprized them that they were illegally introduced into the Havana ; and on this state of facts we, with great respect, insist that the purchasers of Africans illegally introduced into the dependencies of a country which has prohibited the slave trade, and who make the purchase with knowledge of this fact, can acquire no right. We put the matter on the Spanish law ; and we affirm that Messrs. Ruiz and Montes have no title, under that law, to these Africans.

If this be so, then these negroes have only obeyed the dictates of self-defence. They have liberated themselves from illegal restraint, and it is superfluous to say that Messrs. Ruiz and Montes have no claim whatever under the treaty.

It is this question, sir, fraught with the deepest interest, that we pray you to submit for adjudication to the tribunals of the land. It is this question that we pray may not be decided in the recesses of the cabinet, where these unfriended men can have no counsel and can produce no proof, but in the halls of Justice, with the safeguards that she throws around the unfriended and oppressed.

And, sir, if you should not be satisfied with the considerations here presented, we then submit that we are contending for a right upon a construction of a treaty ; that this point, at least, should be presented to the courts of justice ; and, should you decide to grant an order surrendering these Africans, we beg that you will direct such notice of it to be given, as may enable us to test the question as we shall be advised, by habeas corpus or otherwise.

We have only, sir, to add, that we have perfect confidence that you will decide in this matter with a single regard to the interests of justice and the honor of the country, and that we are, with the greatest respect, your most obedient servants,

SETH P. STAPLES.  
THEODORE SEDGWICK, JR.

MARTIN VAN BUREN, Esq.,  
*President of the United States.*

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*The Secretary of State to Mr. Butler.*

DEPARTMENT OF STATE,  
*Washington, October 24, 1839.*

SIR: The Spanish minister has applied to this department for its interposition in procuring the release from arrest of Jose Ruiz and Pedro

Montes, two Spanish subjects, arrested and imprisoned at the suit of certain Africans. As this appears to be a civil suit before the ordinary local courts of law, the interference asked by the Spanish minister cannot, of course, be afforded; but as the case obviously grows out of the arrival of the Amistad, and the landing of the Africans on board, within our jurisdiction, now under consideration, the President, thinking that your agency might be useful to Messrs. Ruiz and Montes, desires you to put yourself in communication with those gentlemen, and to offer them your advice (and your aid, if necessary) as to any measure which it may be proper for them to take to obtain their release, and any indemnity to which, under our laws, they may be entitled for their arrest and detention.

I am, sir, your obedient servant,

JOHN FORSYTH.

B. F. BUTLER, Esq.,

*Att'y U. S. for South. Dist. of New York.*

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*Mr. Butler to the Secretary of State.*

UNITED STATES DISTRICT ATTORNEY'S OFFICE,

*New York, October 28, 1839.*

SIR: Enclosed I have the honor to hand you copies of letters this day addressed by me to Mr. Jose Ruiz, and to his attorney and counsel, Mr. Purroy, in compliance with the instructions contained in your letter of the 24th instant. I need not, I hope, assure you that all the aid which it may be in my power to render to Mr. Ruiz, and also to Mr. Montes, (who has been discharged from arrest,) should he need my services, will be promptly afforded.

I am, sir, very respectfully, your obedient servant,

B. F. BUTLER,

*United States Attorney.*

Hon. JOHN FORSYTH,

*Secretary of State of the United States.*

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UNITED STATES DISTRICT ATTORNEY'S OFFICE,

*New York, October 28, 1839.*

SIR: Enclosed is a letter, offering to Mr. Ruiz any advice and aid in my power in relation to his arrest and imprisonment in this city, written by me pursuant to instructions this day received from the Secretary of State of the United States.

I transmit it to you, because I understand that you are counsel for Mr. Ruiz in the suit brought against him, and I will thank you to cause it to be conveyed to him without delay. I am instructed to make the like offer in respect to Mr. Montes; but deem it unnecessary to do so, because I perceive by the public prints, that he has been discharged from arrest. As you are also counsel for Mr. Montes, I will be greatly obliged to you, should I be mistaken in this impression, and should he need my services, for information to that effect.

Very respectfully, your obedient servant,

B. F. BUTLER,

*United States Attorney.*

JOHN B. PURROY, Esq.,

*Counsellor at Law, New York.*



UNITED STATES DISTRICT ATTORNEY'S OFFICE,  
NEW YORK, *October 28, 1839.*

SIR: By a communication this day received by me from the Secretary of State of the United States, I am informed that the Spanish minister has applied to the Department of State for its interposition in the matter of your imprisonment in this city. As the suit against you appears to be one of a civil nature, before the local courts of law, the Government of the United States cannot interfere in the manner requested; but I have been instructed by the Secretary to put myself in communication with you, and to offer you any advice and aid which may be in my power, and which may be necessary and proper to obtain your release, and any indemnity to which, under our laws, you may be entitled for your arrest and detention. This offer I have now the honor to make; and whenever I may be called on in your behalf, I will give such attention as may be in my power to your interests.

I am, sir, very respectfully, your obedient servant,

B. F. BUTLER,  
*United States Attorney.*

Mr. JOSE RUIZ, *New York.*

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*Acting Secretary of State to Mr. Butler.*

DEPARTMENT OF STATE,  
WASHINGTON, *November 9, 1839.*

SIR: I transmit to you, by direction of the President, the translation of another note from the Spanish minister, respecting the arrest of Ruiz and Montes. It is the desire of the President that you should inform this department of the state of the proceedings in that case; and state whether there is, within your knowledge, any thing that the government can further do on this branch of the subject.

I am, sir, respectfully, your obedient servant,

A. VAIL,  
*Acting Secretary of State.*

B. F. BUTLER, Esq., *Attorney U.S.,  
for Southern Dist. of New York.*

*Enclosure*—Note of the Chevalier de Argaiz, of the 5th November, 1839.

*Mr. Butler to Mr. Vail.*

U. S. DISTRICT ATTORNEY'S OFFICE,  
NEW YORK, *November 18, 1839.*

SIR: In reply to the inquiries made in your letter on the 9th instant, I have the honor to make the following statement:

On the day after the interview with the Spanish minister, referred to in his letter of the 5th of November, I visited Mr. Ruiz at the jail, and obtained from him all the material facts of his case. Immediately after this, I had a conference with Mr. Purroy, the counsel of Mr. Ruiz, by whom the application for the discharge of the defendants had been made and argued before the State courts, and received from him a copy of the papers, and a full statement of his proceedings.

In my subsequent reflections on the subject, and upon connecting the statements of Mr. Purroy with some facts stated to me by Mr. Ruiz, I thought it advisable to inquire into the laws of Cuba, in relation to several particulars which had not been adverted to in the papers and argu-

of the United States for the district of Connecticut, to whom corresponding instructions have been given, in order that he may receive the earliest information of the decision of the court, and advise with him as to the mode of carrying it into effect. I enclose an order from the President to the marshal of the district, directing him to place the negroes at the disposition of Lieutenant Paine, who, on being informed of the decision of the court, will serve it upon the marshal. Lieutenant Paine will likewise receive from the district attorney an authenticated copy of the records, documents, and evidence in the case, which he will convey to Cuba, to be used by the authorities of the island in any proceedings which they may institute in relation to it. On his arrival at Havana, he will give notice of it to the consul, with the enclosed letter, explanatory of the object of his visit; and will, in every respect, conform with such suggestions as he may receive from him with regard to the delivery of the negroes and papers to the authorities of the island. In a letter addressed by this department to the Spanish minister, his interference with the authorities of Cuba has been requested, in order that such testimony as it may be desirable to obtain from Lieutenants Gedney and Meade be taken as speedily as possible.

It is hoped, therefore, that those officers will be detained but a short time at Havana, and that they may return in the *Grampus*, if it shall suit the convenience of the Navy Department to afford them a passage home in that vessel.

I have the honor to be, sir, your obedient servant,

JOHN FORSYTH.

HON. JAMES K. PAULDING,

*Secretary of the Navy.*

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The marshal of the United States for the district of Connecticut will deliver over to Lieutenant John S. Paine, of the United States navy, and aid in conveying on board the schooner *Grampus*, under his command, all the negroes, late of the Spanish schooner *Amistad*, in his custody, under process now pending before the circuit court of the United States for the district of Connecticut.\* For so doing, this order will be his warrant.

Given under my hand, at the city of Washington, this 7th day of January, A. D. 1840.

M. VAN BUREN.

By the President :

JOHN FORSYTH, *Secretary of State.*

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\* Circuit Court—instead of District Court—see note p. 35. This error shows extraordinary haste, to say the least, and had well nigh defeated the intentions of government in dispatching the U. S. Schooner *Grampus* to be ready to receive the Africans if the decision of the District Judge had been as was hoped and expected. It may be said in this instance as was remarked by a quaker lady to the claimant of a fugitive slave who was baffled in an attempt to remove his victim from a free State into bondage—"Thy prey hath escaped thee!" The good providence of Almighty God has hitherto protected these unfortunate Africans. Prayer is daily ascending on their behalf. A strong and anxious sympathy is felt in the community, and it will not be the fault of those who have expended much time and money in their defence, or of the eminent counsel who have been and will be employed, if the Africans shall be given up to the tender mercies of the Spaniards.

